

HARTER SECREST & EMERY LLP  
Attorneys at Law  
One HSBC Center, Suite 3550  
Buffalo, New York 14203-2884

111955

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

---

**HEARING DATE:**  
December 12, 2000

IN RE:

**Time:** 10:00 a.m.

RANDALL'S ISLAND FAMILY  
GOLF CENTERS, INC., ET AL.,

Case Nos. 00-41065-smb  
through 00-41196-smb

DEBTOR.

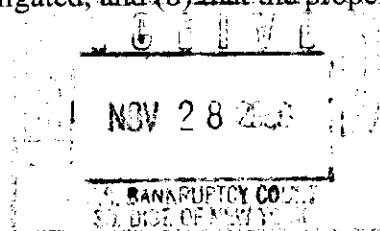
---

Chapter 11

**NOTICE OF MOTION FOR ORDER GRANTING RELIEF  
FROM THE AUTOMATIC STAY AND ABANDONMENT  
OF PROPERTY OF THE ESTATE**

PLEASE TAKE NOTICE that 8230 Wehrle Drive, Inc. ("Wehrle Drive"), by its undersigned attorneys, will move before the Honorable Stuart M. Bernstein, in his courtroom, at the United States Bankruptcy Court, Alexander Hamilton Custom House, One Bowling Green, New York, New York 10004-1408, on December 12, 2000, at 10:00 a.m., or as soon thereafter as counsel may be heard, for an Order granting Wehrle Drive relief from the automatic stay imposed by 11 U.S.C. Section 362 and abandonment of property of the estate pursuant to 11 U.S.C. Section 554.

The accompanying motion seeks relief pursuant to 11 U.S.C. section 362 (d) and Federal Rule of Bankruptcy Procedure 4001 (a), and is based upon (a) the Debtor's default under the terms and conditions of the Lease under which Debtor is obligated, and (b) that the property is of no benefit to the estate.



**PLEASE TAKE FURTHER NOTICE that responses or opposition to this motion, if any, shall be in writing**, shall state with particularity the underlying reason(s) for the response or opposition and **shall be served on the undersigned no later than three (3) days -prior to the return date** of this motion (add three days to the foregoing period if served by regular mail and add one day, if by overnight mail). **Additionally, responses or opposition must be electronically filed no later than three (3) days prior to the return date** of this motion, together with proof of service on the undersigned and a copy designated for chambers sent to United States Bankruptcy Court, Alexander Hamilton Custom House, One Bowling Green, New York, New York 10004-1408.

Dated: November 20, 2000  
Rochester, New York

HARTER, SECRET & EMERY LLP

By: 

Raymond L. Fink, Esq.  
Ingrid S. Palermo, Esq.  
Attorneys for 8230 Wehrle Drive, Inc.  
Office and Post Office Address  
One HSBC Plaza, Suite 3550  
Buffalo, New York 14203-2884  
Telephone: (716) 232-6500

To: Attached Service List

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

---

**HEARING DATE:**  
December 12, 2000

IN RE:

**Time:** 10:00 a.m.

RANDALL'S ISLAND FAMILY  
GOLF CENTERS, INC., ET AL.,

Case No. 00-41065-smb  
through 00-41196-smb

DEBTOR.

---

Chapter 11

**MOTION FOR ORDER GRANTING RELIEF  
FROM THE AUTOMATIC STAY AND ABANDONMENT of  
PROPERTY OF THE ESTATE**

8230 Wehrle Drive, Inc. ("Wehrle Drive"), a secured creditor in the above-captioned bankruptcy case, by and through its attorneys Harter, Secret, & Emery LLP, moves this Court for an Order granting relief from the automatic stay, pursuant to section 362(d) of title 11, United States Code (the "Bankruptcy Code"), and abandonment of property of the estate pursuant to Section 554 of the Bankruptcy Code, and Federal Rule of Bankruptcy Procedure 4001(a), and in support thereof, states as follows:

1. On or about May 4, 2000 (the "Filing Date"), the debtors (the "Debtor") filed a petition for relief under chapter 11 of the Bankruptcy Code.
2. The Court has jurisdiction over this motion pursuant to section 157 of title 28, United States Code.
3. Pursuant to an Agreement and Promissory Note (collectively the "Agreement") dated January 31, 1997, the Debtor purchased the business comprising of "Caddyshack Golf

Dome” located at 8230 Wehrle Drive, Williamsville, New York, from Wehrle Drive.<sup>1</sup> These agreements are attached as Exhibit B.

4. On or about February 28, 1997, the Debtor and Wehrle Drive closed on the Agreement. At the closing, the Debtor and Wehrle Drive contemporaneously executed an Assignment of Intangible Personal Property, Bill of Sale, a Security Agreement, and a Right of First Refusal (collectively “Sale and Perfection Documents”). The Sale and Perfection Documents are attached as Exhibit C.

5. On or about March 1, 1997, the Debtor and Wehrle Drive entered into a ground lease (“Lease”) which was filed in the Deed Liber Book 10914, page 1395 on March 24, 1997. The Lease is attached as Exhibit D.

6. Pursuant to 11 U.S.C. section 362, upon the commencement of the instant bankruptcy cases, Wehrle Drive was stayed from taking any action against the Debtor to commence eviction proceedings regarding the Lease.

7. As of November 2000, the Debtor is in default on its post-petition payment obligations to Wehrle Drive, pursuant to the terms and conditions of the Lease as follows:

(a) The Debtor has failed to make the November 2000 lease payment in the amount of \$25,000.

(b) The Debtor has failed to pay the 2000-2001 tax of approximately \$7,700.

(c) Approximately \$282,000 in repairs need to be performed at the premises. Attached as Exhibit E is a list of the needed repairs.

**(PLEASE NOTE:** The foregoing does not represent any amount due for the costs and attorneys, fees of this motion, as may be allowed by the Court.)

---

<sup>1</sup> The agreements were executed by the Debtor and Caddyshack Golf Dome, Inc. Attached is a Certificate amending the corporate name to 8230 Wehrle Drive, Inc., as Exhibit A.

8. Prior to the petition date, the Debtor was in default on the Lease Agreements, and Sale and Perfection Documents as follows:

- (a) The Debtor failed to make \$2,419.35 in lease payments.
- (b) A Swing Golf Simulator, valued at approximately \$45,000, was removed from the premises, and must be replaced.
- (c) When the Debtor replaced the dome, the contractor damaged the roof of the permanent structure, which has resulted in severe water damage. The repairs are estimated to cost \$2,500.
- (d) New blowers need to be installed, because the current ones are inadequate to maintain the proper air pressure to protect the new dome from collapsing under heavy winds.

9. Accordingly, sufficient cause exists, under section 362(d) of the Bankruptcy Code, for the Court to grant Wehrle Drive relief from the automatic stay herein, and under Section 554 for abandonment. Such sufficient cause includes, but is not limited to, the following:

- (a) The Debtor is in default under the terms and conditions of the Lease with Wehrle Drive; and
- (b) Klak Golf excluded this property from its acquisition agreement, which indicates that it has inconsequential value and has no benefit to the estate.

10. Wehrle Drive therefore respectfully requests that the Court sign and enter the accompanying proposed Order, or an Order in substantial conformity therewith, granting to Wehrle Drive the relief requested herein, together with such other and further relief as this Honorable Court deems to be just, fair and proper.

11. No prior request for the relief sought herein has been made to this or any Court.

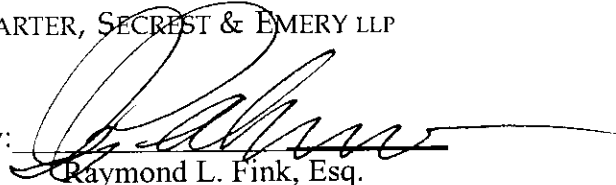
WHEREFORE, Wehrle Drive respectfully requests that this motion be granted in full, that the Court sign and enter the accompanying, proposed Order, or an Order in substantial conformity therewith, pursuant to sections 362(d) and 554 of the Bankruptcy Code, (a) granting Wehrle Drive relief from the automatic stay to the extent of permitting Wehrle Drive, its

successor and/or assigns to commence eviction, proceedings under the Lease, (b) directing the abandonment of the property to Wehrle Drive, and (c) granting such other and further relief as this Honorable Court deems just, fair and proper.

Dated: November 22, 2000  
Buffalo, New York

HARTER, SECRET & EMERY LLP

By:

A handwritten signature in black ink, appearing to read 'R. Fink', is written over a horizontal line.

Raymond L. Fink, Esq.

Ingrid S. Palermo, Esq.

One HSBC Center, Suite 3550

Buffalo, NY 14203-2884

To: Attached Service List

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

---

IN RE:

RANDALL'S ISLAND FAMILY  
GOLF CENTERS, INC., ET AL.,

Case No. 00-41065-smb  
through 00-41196-smb

Chapter 11

DEBTOR.

---

**(PROPOSED) ORDER GRANTING RELIEF  
FROM THE AUTOMATIC STAY**

UPON the motion of 8230 Wehrle Drive ("Wehrle Drive") for an Order granting relief from the automatic stay imposed by 11 U.S.C. Section 362(d) and abandonment of property of the estate pursuant to 11 U.S.C. Section 554; and due notice of said motion and the proposed form of this Order having been given to the appropriate parties; and no opposition, or unsatisfactory opposition, thereto having been interposed; and after due deliberation and for cause; it is

ORDERED that, pursuant to Section 362(d) of the Bankruptcy Code, the motion of Wehrle Drive for relief from the automatic stay is granted; and it is further

ORDERED, that the Debtor is directed to abandon the property to Wehrle Drive; and it is

ORDERED that the automatic stay be and hereby is terminated to the extent of permitting Wehrle Drive, its successors and/or assigns to commence eviction proceedings under the Lease.

Dated: \_\_\_\_\_, 2000  
New York, New York

---

Honorable Stuart M. Bernstein  
United States Bankruptcy Judge





F981223000033

CERTIFICATE OF AMENDMENT OF THE  
CERTIFICATE OF INCORPORATION OF  
CADDYSHACK GOLF DOME, INC.

Under Section 805 of the Business Corporation Law

The undersigned Corporation submits the following statement for the purpose of changing the location of its office.

1. The name of the corporation is Caddyshack Golf Dome, Inc.
2. The Certificate of Incorporation was filed by the Department of State on February 9, 1993. The change effected hereby is as follows:
  - (a) Paragraph (1) of the original Certificate of Incorporation, dealing with the name of the Corporation is as follows:

"The Name of the Corporation is:

CADDYSHACK GOLF DOME, INC.

and is hereby amended to read as follows:

"The Name of the Corporation is:

8230 WEHRLE DRIVE, INC.

This change was authorized by the Board of Directors on October 16, 1998. and by a majority vote taken by the shareholders of the Corporation on October 16, 1998.

Dated: November 19<sup>th</sup> 1998

IN WITNESS WHEREOF, this certificate has been subscribed this 19<sup>th</sup> day of November, 1998, by the undersigned who affirm that the statements made herein are true under the penalties of perjury.

  
MICHAEL SEAMAN, President

981223000033

CERTIFICATE OF AMENDMENT OF THE  
CERTIFICATE OF INCORPORATION  
OF

CADDYSHACK GOLF DOME, INC.

Under Section 805 of the Business Corporation Law

ICC

STATE OF NEW YORK  
DEPARTMENT OF STATE

FILED DEC 23 1998

TAX \$

BY:

PEM

ERIE Co.

Filer:

ROBERT M. PUSATERI, ESQUIRE  
131 East Avenue, P. O. Box 540  
Lockport, NY 14095-0540

981223000033

2

TOTAL P.03



## AGREEMENT

THIS AGREEMENT, made and entered as the Effective Date (as hereinafter defined) by and between CADDYSHACK GOLF DOME, INC., a New York corporation, with an address of 8230 Wehrle Drive, Williamsville, New York 14221 ("Seller") and Golden Bear Golf Centers, Inc., a Florida corporation with an address of 11780 U.S. Highway #1, North Palm Beach, Florida 33408 ("Buyer" or "Purchaser"), recites and provides as follows:

### RECITALS

A. Buyer is desirous of acquiring certain of the "Assets" of the businesses comprising "Caddyshack Golf Dome" located at 8230 Wehrle Drive, Williamsville, New York 14221. The Assets consist of the Existing Dome and the existing driving range, and all of the personal property utilized in connection therewith, buildings and other improvements (the "Improvements") described on Exhibit "A" hereto.

B. The Assets shall not include the existing pro-shop and existing restaurant business (collectively referred to herein as the "Excluded Business") or fee title to the "Real Estate" hereinafter described.

C. At closing hereunder Buyer shall obtain title to: a leasehold estate in the Real Estate described in Exhibit "B" and an easement over the "Common Area" described on Exhibit B-1, (including the parking lot, to be utilized jointly by Buyer,

Seller and the Excluded Businesses pursuant to the "New Lease" in the form attached hereto as Exhibit "C".

D. The Assets include all intangible personal property (e.g. contracts, licenses and permits) involved in the operation of the Assets. A list of all tangible personal property utilized in connection with the Assets and included in the acquisition contemplated herein is set forth on Exhibit "D" hereto.

E. Seller has agreed to grant to Buyer the right to (i) enter into the New Lease, and (ii) purchase the Improvements and the Assets on the terms and conditions set forth herein. The leasehold estate in the Real Estate, the Improvements and Assets are collectively referred to herein as the "Project."

FOR good and valuable consideration, the receipt of which is hereby acknowledged,

THE PARTIES HERETO DO HEREBY MUTUALLY COVENANT AND AGREE AS FOLLOWS:

1. Agreement.

Seller hereby grants to Buyer the exclusive right to acquire the Improvements and the Assets on the terms and conditions hereinafter described.

2. Real Estate.

Subject to the terms and conditions hereinafter stated, the Buyer shall have the exclusive right to enter into the "New Lease" on the terms and conditions set forth herein.

3. Purchase Price.

At Closing, Buyer shall pay the Purchase Price set forth on Exhibit "E" hereto. Buyer shall also pay any sales tax due on the purchase of the tangible personal property.

4. Closing.

A. Closing shall occur on or before February 28, 1997, subject to all matters set forth herein.

B. At the Closing, Buyer and Seller, as appropriate shall execute any and all documents reasonably necessary to carry out the provisions hereof, including, but not limited to, the New Lease; a recordable Memorandum of the New Lease; the Note; Security Agreement; a General Assignment of all applicable contract rights and other intangible personal property (including all construction warranties and all applicable licenses and permits); a Bill of Sale conveying the Improvements and all Assets; a Closing Statement; a so-called FIRPTA Affidavit; a No-Lien, Gap and Parties in Possession Affidavit; and a letter to all vendors. Seller shall also provide evidence of good standing, corporate resolution (with incumbency certificate) and any other items reasonably required by Buyer or the title insurer. The parties shall also enter into the "Covenant and Agreement" described in Section 28 hereto, and all other documents referred to herein.

C. At Closing, Buyer shall pay Seller the Purchase Price as provided herein, and Seller shall provide evidence of payment, satisfaction or release of all "Existing Liens" hereinafter described and all other sums payable by Seller hereunder, all as provided herein; provided, however, that Seller

may obtain (and retain) mortgage financing of the Real Estate if any such mortgagee enters into an attornment and non-disturbance agreement in form and substance reasonably acceptable to Buyer.

D. At or prior to Closing, Seller shall provide evidence of payment of all Taxes (as hereinafter defined) including all real and personal property taxes, and all sales taxes, due and payable through Closing (except as hereinabove set forth).

E. Possession of the Project shall be made available to Buyer on midnight of the day of Closing.

F. All reasonable expenses normal to the operation and maintenance of the Project shall be apportioned between Seller and Purchaser as of the date of closing. All appropriate sums due Seller or credited to Buyer shall be ascertained at Closing or, if not capable of ascertainment at Closing, within one hundred eighty (180) days thereafter at the reasonable request of either Buyer or Seller.

G. Seller shall comply with all applicable bulk sales requirements.

5. Conditions to Closing.

Buyer's obligation to proceed to Closing is subject to all matters set forth herein. Seller and Buyer agree to proceed in good faith and take such action as is reasonably within its control in order to consummate the transaction contemplated hereby, in accordance with the provisions hereof.

A. (1) During the Examination Period, Buyer shall obtain a commitment (the "Title Commitment") at Buyer's expense, issued by a nationally recognized title company (the "Title Company") for an A.L.T.A. Form B leasehold title insurance policy (the "Title Policy"), showing title to the Real Estate and the Common Area in Seller and subject only to those matters acceptable to Buyer (the "Permitted Exceptions") in the exercise of its sole discretion.

(2) If the Title Commitment contains exceptions other than Permitted Exceptions, Buyer shall notify Seller of its approval or rejection of such exceptions prior to the expiration of the Examination Period. All such "Unpermitted Exceptions" and "Survey Defects" (as defined below) shall be corrected at Seller's expense, and/or removed of record in a manner satisfactory to Buyer, and shall not appear on the Title Policy when issued; provided, however, that Seller shall not be obligated to expend more than \$50,000.00 (not including payment of all other sums to be paid by Seller hereunder) to cure any such Unpermitted Exceptions. If Seller is unable to correct and/or remove of record any Unpermitted Exception(s) by the date of Closing set forth herein, then Buyer may, upon written notice to Seller, postpone and repostpone the Closing for a period totaling in the aggregate not more than ninety (90) days so as to permit Seller to correct and/or remove of record such Unpermitted Exception(s). If Seller is unable to cure of record any Unpermitted Exceptions, Buyer shall either (i) proceed to Closing



with no adjustment to the Purchase Price, or (ii) terminate this Agreement.

B. During the Examination Period, Buyer shall obtain a current survey of the Real Estate and the Common Area (the "Survey") certified to the Buyer and to the Title Company, and dated as of the then current date. The Survey shall be reasonably satisfactory to Buyer in form and substance, shall locate all Improvements and show all building set-back lines (public and private) and applicable Schedule B exceptions on the Title Commitment, shall include flood plain, wetland and conservation area designations, and shall be in such form as the Title Company shall require to delete the standard survey exceptions in the Title Policy. The Survey shall indicate that the Property does not include any gaps, hiatuses, encroachments, encumbrances, drainage canals or other matters not acceptable to Buyer. Any survey matters which cause the Survey not to comply with the requirements are referred to herein as "Survey Defects".

C. During the Examination Period, Buyer shall obtain a "UCC-Search" which shall indicate that the sole liens encumbering the Real Estate, the Assets and/or the Improvements are the "Existing Liens" described on Exhibit "F" hereto. All Existing Liens shall be paid, satisfied or released at Closing by Seller.

D. In addition to all other matters set forth herein, Buyer shall have no obligation to consummate the within contemplated transaction unless and until the following conditions have either been satisfied or waived by Buyer in

writing. If all such conditions are neither satisfied nor waived, Buyer may thereafter terminate this Agreement upon written notice to Seller. Such conditions are as follows:

(a) All representations, warranties and covenants of Seller shall be true and correct on the Closing Date and Buyer shall have received such evidence thereof as Buyer may reasonably request;

(b) Between the date of this Agreement and the Closing Date, there shall have been no intervening destruction or damage to or condemnation of the Project or any portion thereof, or any material adverse change in the profitability of the Project;

(c) Seller shall have performed all other obligations under this Agreement; and

(d) all matters with respect to the Project (including all matters relating to the access and entranceway feature) being acceptable to Buyer as provided herein.

6. Default.

A. Upon a default by Buyer hereunder, Seller shall be entitled to the \$10,000.00 Deposit as full and complete liquidated damages (actual damages being impossible to ascertain) and Seller shall have no other rights or remedies.

B. Upon a default by Seller hereunder, Buyer shall have all rights and remedies available at law or in equity, including, but not limited to, the right of specific performance.

7. Access.

A. Commencing on the Effective Date and terminating on February 27, 1997,\* Buyer and Buyer's agents shall have the right to enter the Real Estate at all reasonable times to examine the Project, provided that Buyer shall not interfere with Seller's operation of the Project. In the event this Agreement is terminated, the right of entry granted hereby shall likewise be terminated.

B. Without limiting the generality of the foregoing, Buyer may perform or cause to be performed soil tests, inspections, radon, lead paint and asbestos investigations, environmental audits, surveying and engineering services, appraisals and to otherwise view and inspect the Project and all components thereof, and all of Seller's financial and other records in connection therewith. Any such entry upon the Real Estate shall be at Buyer's sole risk and expense and Buyer shall indemnify and hold Seller harmless from any such entry, and of and from any and all costs, expenses, loss, damage, claim or liability, arising out of or incurred or claimed in connection with the exercise by Buyer of such right of entry, and any such entry shall be performed in such a manner so as to minimize damage to the Real Estate. This indemnity shall survive termination hereof or Closing.

C. Seller also hereby grants Buyer permission to investigate and to examine any and all governmental records

---

\*or such longer period as may be required to obtain the appraisal and the environmental audit

and to conduct interviews with any and all relevant governmental and regulatory authorities with respect to the use and ownership of the Project, including the improvements described in Section 29 hereof, all of which examinations and inspections shall be undertaken at the sole cost and expense of Buyer.

D. Immediately upon the execution hereof, Seller shall make available to Buyer for inspection or copying: any and all zoning and platting information; all site plans and the like; any soil tests; any existing title insurance policies and commitments; all governmental approvals, permits and licenses (the "Licenses"); any existing surveys, together with as-built plans and specifications; all construction contracts and records; sales tax returns for the last twelve (12) months; real estate and personal property tax bills; all architectural and construction contracts; existing insurance policies; all Project agreements, and any correspondence in connection therewith; all appraisals, marketing studies and the like; all management and service contracts; all operating and expense reports prepared by or for Seller; all books and records of Seller concerning the Project and any other documents concerning the Project reasonably requested by Buyer and which are in the possession or control of Seller or its agents.

E. Buyer may terminate this Agreement for any reason in the exercise of Buyer's business judgment by written notice to Seller prior to the termination of the Examination Period. In such event, neither party shall have any further rights or obligations hereunder; provided, however, that in the event Buyer

terminates this Agreement for any reason other than a "Good Cause" as defined below, the Escrow Agent shall deliver \$5,000.00 of the Deposit to Buyer and \$5,000.00 of the Deposit to Seller.

For purposes hereof, "Good Cause" shall be defined as any of the following: (i) title or survey defect not cured by Seller; (ii) unfavorable environmental audit; (iii) violation of any representations or warranties made by Seller; (v) unacceptable zoning or other governmental conditions applicable to the Property; or (v) defects in the improvements.

8. Representations by Seller.

Seller represents and warrants to Buyer as follows:

A. Marketable Title. Seller has good, marketable and insurable title to the Real Estate and Common Area and Seller has good and marketable title to the Assets, free and clear of all mortgages, liens and security interests, except for the Existing Liens.

B. Condemnation Pending or Threatened. There is no pending or threatened condemnation or similar proceeding affecting the Real Estate or any portion thereof, nor has Seller knowledge that any such action is presently contemplated.

C. Adverse Information. Seller has no information or knowledge of any change contemplated in any applicable laws, ordinances, or restrictions, or any judicial or administrative action, or any action by adjacent landowners, or natural or artificial conditions upon the Real Estate, or the condition thereof, which would prevent, limit, impede, or render more costly Buyer's use of the Project.

terminates this Agreement for any reason other than a "Good Cause" as defined below, the Escrow Agent shall deliver \$5,000.00 of the Deposit to Buyer and \$5,000.00 of the Deposit to Seller.

For purposes hereof, "Good Cause" shall be defined as any of the following: (i) title or survey defect not cured by Seller; (ii) unfavorable environmental audit; (iii) violation of any representations or warranties made by Seller; (v) unacceptable zoning or other governmental conditions applicable to the Property; or (v) defects in the improvements.

8. Representations by Seller.

Seller represents and warrants to Buyer as follows:

A. Marketable Title. Seller has good, marketable and insurable title to the Real Estate and Common Area and Seller has good and marketable title to the Assets, free and clear of all mortgages, liens and security interests, except for the Existing Liens.

B. Condemnation Pending or Threatened. There is no pending or threatened condemnation or similar proceeding affecting the Real Estate or any portion thereof, nor has Seller knowledge that any such action is presently contemplated.

C. Adverse Information. Seller has no information or knowledge of any change contemplated in any applicable laws, ordinances, or restrictions, or any judicial or administrative action, or any action by adjacent landowners, or natural or artificial conditions upon the Real Estate, or the condition thereof, which would prevent, limit, impede, or render more costly Buyer's use of the Project.

D. Compliance with Laws. Seller has complied with all applicable laws, ordinances, regulations, statutes, rules and restrictions pertaining to and affecting the Project. Performance of this Agreement will not result in any breach of, or constitute any default under, or result in the imposition of, any lien or encumbrance upon the Project under any agreement or other instrument to which Seller is a party or by which Seller or the Project might be bound.

E. Pending Litigation. There are no legal actions, suits, or other legal or administrative proceedings, including condemnation cases, pending or threatened, against the Project, and Seller is not aware of any facts which might result in any such action, suit or other proceedings.

F. Disclosure of Adverse Facts. There is no material adverse fact or condition relating to the Project or its continued use which has not been specifically disclosed in writing by Seller, and Seller knows of no fact or condition of any kind or character whatsoever which materially adversely affects such intended use of the Project.

G. Building Permits. All building permits required for the Project are in good standing and were validly issued by the appropriate governmental authorities, and all required certificates of occupancy have been issued and are outstanding.

H. Existing Improvements. All Improvements have been completed and installed in accordance with the plans and specifications approved by the various governmental authorities having jurisdiction and permanent certificates of occupancy, all

licenses, permits, authorizations, and approvals required by all governmental authorities having jurisdiction and the requisite certificates of the local board of fire underwriters (or other body exercising similar functions) have been issued for the buildings and improvements and have been paid for.

I. No Violations of Laws, etc. No building, or similar law, ordinance or regulation is, or as of the Closing will be, violated by the continued maintenance, operation, or use of any buildings, improvements, or structures presently erected on the Real Estate or by the continued maintenance, operation, or use of the parking areas. There are no uncured violations of federal, state, or municipal laws, ordinances, orders, regulations, or requirements affecting any portion of the Project. No heating equipment, incinerators or other burning devices violate, or as of the Closing will violate, any applicable federal, state, or municipal laws, ordinances, orders, regulations or requirements.

J. Service Contracts. There are no contracts, oral or written, with any employees nor any service contract, maintenance contract nor any other contract or agreement relating to the Project which are not terminable at will. All existing contracts are shown on Exhibit "G" hereto. Copies of all such existing agreements shall have been delivered to Buyer during the Examination Period.

K. Condition. All building and operating equipment and all Assets are in good and proper operating order and the Improvements are in good structural condition, free of termite



infestation, roof leakage, wood rot or decay or any structural defect which substantially impairs the value or life expectancy.

L. Hazardous Substances. Seller hereby represents and warrants to Buyer that (i) to the knowledge of Seller, the Project is not contaminated with any hazardous substance; (ii) Seller has not caused and will not cause, and to the best of Seller's knowledge, there never has occurred, the release of any hazardous substance on the Real Estate; (iii) the Real Estate is not subject to any federal, state or local "superfund" lien, proceedings, claim, liability or action, or the threat or likelihood thereof, for the cleanup, removal, or remediation of any such hazardous substance from the Real Estate or from any other Real Estate owned or controlled by Seller or in which Seller has any interest, legal or equitable; (iv) there is no asbestos (or other regulated material) in any of the Improvements; (v) Seller has not installed any, and to Seller's knowledge, there are no underground storage tanks on the Real Estate; (vi) Buyer will not incur or be subjected to any "superfund" liability for the cleanup, removal or remediation of any hazardous substance from the Real Estate or any liability, cost, or expense for the removal of any asbestos or underground storage tank from the Real Estate; and (vii) Seller will indemnify, defend, and hold Buyer harmless from and against any and all claims, demands, liabilities, damages, suits, actions, judgments, fines, penalties, loss, cost and expense (including, without limitation, attorneys fees) arising or resulting from, or suffered, sustained or incurred as a result of, the material

untruth or inaccuracy of any of the foregoing representations and warranties of Seller, which indemnity shall survive the closing. The terms "hazardous substance," "release" and "removal" as used herein shall have the same meaning and definition as set forth in paragraphs (14), (22) and (23), respectively, of Title 42 U.S.C. §9601 and under any applicable New York or local law provided, however, that the term "hazardous substance" as used herein also shall include "hazardous waste" as defined in paragraph (5) of 42 U.S.C. §6903 and "petroleum" as defined in paragraph (8) of 42 U.S.C. §6991. The term "superfund" as used herein means the Comprehensive Environmental Response, Compensation and Liability Act, as amended, being Title 42 U.S.C. §9601 et seq., as amended, and any similar state statute or local ordinance applicable to the Property, and all rules and regulations promulgated, administered and enforced by any governmental agency or authority pursuant thereto. The term "underground storage tank" as used herein shall have the same meaning and definition as set forth in paragraph (1) of 42 U.S.C. §6991, and applicable New York law.

M. Authority. Seller has the authority and power to enter into this Agreement and to consummate the transaction provided for by this Agreement. Consummation of this transaction will not breach any agreement to which Seller is a party.

N. Organization. Seller is duly organized and existing in good standing under the laws of the State of New York.

O. Statements. Exhibit "H" attached hereto is a true, correct and complete revenue and expense statement for the Project for 1994, 1995 and 1996 and 1997 to date.

P. Liens. There are no mortgages or deeds of trust or security agreements (other than the Existing Liens) encumbering the Real Estate, the Improvements or the Assets.

Q. Liabilities. All liabilities and obligations of Seller with respect to the Project are clearly and completely reflected on Exhibit "I" hereto. Except for those liabilities set forth on Exhibit "I-1" which are to be assumed by the Buyer, all of such liabilities shall be paid in full by Seller as of Closing.

R. Zoning. The Real Estate is zoned to permit the Project, without special exception; and the Project is not a non-conforming use. Seller has no knowledge of any fact, action or proceeding, whether actual, pending, or threatened, which could result in a modification or the termination of such zoning.

S. No Special Assessments. No portion of the Project is affected by any special assessments, whether or not constituting a lien thereon.

T. Parties in Possession, Leases. There are no parties in possession of any portion of the Project as lessees, licensees, concessionaires, tenants at sufferance or trespassers, except as expressly referred to herein. There are no lease agreements with respect to any of the Assets except as indicated on Exhibit "J".

U. Insurance. Seller currently maintains, and shall maintain until Closing, the insurance set forth on Schedule "A" hereto.

V. Employee Contracts/Plans. Seller warrants that there are no union contracts, collective bargaining agreements, ERISA Employee Benefit Plans, health benefit plans, or employment agreements with respect to the Project. Seller shall be liable for all employee matters pertaining to the Project and Buyer shall assume no obligations in connection therewith.

W. Taxes.

a. All federal, state and local returns, forms or reports required to be filed with respect to any Tax (as defined below) liability of Seller or the Project have been filed in a timely manner (taking into account all extensions of due dates) and any tax of Seller that is due and payable has been paid and no deficiencies for any Tax in respect of Seller or the Project have been asserted or assessed against Seller or the Project in writing which remain unpaid. Any Tax attributable to periods prior to the closing Date, but not yet payable, shall be paid when due by Seller.

b. "Tax" means any federal, state or local income, gross receipts, franchise, privilege, estimated, alternative minimum, add-on minimum, sales, use, transfer, registration, value added, excise, natural resources, severance, stamp, occupation, premium, windfall profit, customs, duties, real property, personal property, ad valorem, capital, stock, social security, unemployment, disability, payroll, license, employee or

other withholding, or other tax, of any kind whatsoever, and including any interest, penalties or additions to tax. For purposes of this Agreement, income taxes shall mean taxes based on or measured by net income but shall not include franchise, capital, stock, minimum, gross receipts or other taxes not based solely on net income.

c. At Closing, Seller shall make arrangements satisfactory to Buyer with respect to payment of any February, 1997 sales taxes.

X. Solvent. Seller is solvent and is not involved in, or contemplating, bankruptcy or debtor relief proceedings.

10. Liabilities of Seller. Buyer shall not, except as shown on Exhibit I-1, assume or become liable for any costs, expenses, liabilities or obligations of Seller or the Project prior to the Closing Date and Seller agrees to defend, indemnify and hold Buyer harmless from any such liabilities. This indemnity shall survive closing for a period of one year.

11. Brokerage. Buyer and Seller each represent to the other that they have dealt with no broker in connection with this transaction. Any fees or commissions which may be claimed by any agent, salesman or broker shall be the sole responsibility of the party who has dealt with any such agent, salesman or broker. Each party agrees to indemnify and hold harmless the other party hereto for any and all judgments, costs of suit, attorneys' fees and other reasonable expenses that the indemnitee may incur by reason of any action or claim made against the indemnitee by any agent, salesman or broker dealing, or claiming

to have dealt, with indemnitors. This provision shall survive Closing, or termination of this Agreement, for a period of five (5) years.

12. Notices. Any notice provided for by this Agreement and any other notice or communication that one party may wish to send to another shall be in writing and sent by overnight commercial courier service (i.e., Federal Express or Purolator) addressed to the party for which such notice or communication is intended, at such party's address set forth below or at any other address provided in writing by such party to the other party by notice complying with this Section.

Seller: Michael A. Seaman  
8230 Wehrle Drive  
Williamsville, New York 14221

with a copy to: Robert M. Pusateri, Esq.  
Smith, Speranza, Pusateri,  
Fitzgerald, Foltz & May  
131 East Avenue  
Post Office Box 540  
Lockport, New York 14095-0540

Buyer: Golden Bear Golf  
Centers, Inc.  
11780 U.S. Highway #1  
North Palm Beach, FL 33408  
Attention: Mr. Gary Rosmarin,  
President  
Phone: (561) 626-3900  
Fax: (561) 626-4104

With a copy to: David M. Shaw, Esq.  
Fleming, Haile & Shaw, P.A.  
440 Royal Palm Way, Suite 10C  
Palm Beach, Florida 33480  
Phone: (561) 833-5600  
Fax: (561) 833-5604

13. Attorneys' Fees. If either party commences an action against the other to enforce any of the terms of this Agreement or because of the breach by either party of any of the terms hereof, the losing or defaulting party shall pay to the prevailing party the reasonable attorneys' fees, costs and expenses incurred in connection with the prosecution or defense of such action, at trial and all appellate levels.

14. Confidentiality. The terms of this Agreement and the information made available as a result of the investigations which preceded the consummation of the transactions contemplated by this Agreement are confidential and are personal or trade or business secrets of the parties. The parties shall not disclose to any other person the nature, terms, or conditions of this Agreement or any information concerning the respective parties unless required by this Agreement, applicable law or as a result of litigation relating to this Agreement or the respective parties.

15. Non-Compete. As part of the consideration to Buyer for entering into and consummating this transaction, Seller and Michael A. Seaman covenant and agree not to directly or indirectly enter into any competing or similar business within a 25-mile radius of the Real Estate or any other Golden Bear Golf Center owned or licensed facility. Seller and Michael A. Seaman covenant and agree that this provision may be enforced by injunction or other equitable relief without the necessity of Buyer placing a bond with the Court. Any violation of the covenants (or any of them) set forth herein by Seller or Michael

A. Seaman would materially and irrevocably harm Buyer and its business. This provision shall survive closing for a period of five (5) years.

16. Survival. All representations, warranties and indemnities of Seller, and all applicable covenants and agreements of Buyer, and Seller, shall survive closing hereunder for a period of one (1) year and shall not merge into such agreement or the closing instruments hereunder. Seller shall indemnify and hold Buyer harmless from any loss, cost, damage or expense whatsoever arising from a breach of any such representation, warranty, covenant or agreement. This indemnity shall survive closing.

In the event that Buyer, prior to the expiration of the one-year period set forth hereinabove, desires to assert a claim under the indemnity set forth hereinabove Buyer and Seller shall proceed as follows:

(a) Buyer shall provide written notice to Seller asserting the breach and the approximate amount of the damages.

(b) Within 10 days of receipt of such notice, Seller shall respond to (i) the alleged breach and (ii) the alleged amount of damages.

(c) If, within 30 days thereafter, Buyer and Seller cannot agree on the breach and the amount of damages, the dispute shall be submitted to binding arbitration in Buffalo, New York, under the commercial rules of the American Arbitration Association.



(d) Any award against the Seller rendered in such arbitration shall be secured by a right of set-off under the New Lease.

17. Cooperation. Buyer and Seller will cooperate with respect to all matters pertaining to Closing hereunder.

18. Inventory. There is no inventory included within this transaction.

19. Maintenance and Risk of Loss. Commencing with the Effective Date and continuing until Closing,

A. Seller shall maintain the Project in its current condition and with the same standard of care as it presently maintains the Project.

B. Seller shall continue to operate its business only in the ordinary and usual course consistent with past practices and in conformity with its current business plan, including all advertising and promotions and shall (i) preserve intact its business organization and goodwill in all respects, (ii) maintain and keep the Project in good repair and condition, (iii) continuously maintain insurance coverage as required herein, and (iv) maintain its relationships with franchisers, licensors, distributors, suppliers and others having business relationships with it. Seller shall not (i) alter in any way the manner of keeping its books, accounts or records or the accounting practices therein reflected; (ii) take any action which would affect the current zoning classification of the Real Estate; (iii) enter into any material contract or agreement or amend, terminate, renew or modify any existing Service

Contract, (iv) enter into any licensing, royalty, or franchise agreement with respect to the Project or amend, terminate, renew or modify any existing License; (v) do any act, or omit to do any act, or permit any act or omission to act which would cause a violation or breach of any of the representations, warranties or covenants set forth in this Agreement; or (vi) enter into any agreement or take any action which could have a material adverse effect on the condition (financial or otherwise), results of operations, assets, liabilities, properties, business or prospects of the Project.

C. All risk of loss to the Project prior to the Closing shall be upon the Seller.

20. Authority of Seller. Each party signing on behalf of Seller hereby represents and warrants to Buyer that he has full authority to sign this Agreement and bind Seller.

21. Authority of the Buyer. Each party signing on behalf of Buyer hereby represents and warrants to Seller that he has full authority to sign this Agreement and bind Buyer.

22. Licenses. Seller shall cooperate with, and execute all necessary documents requested by, Buyer in the transfer (and issuance as applicable) of all Licenses for the Project.

23. Audit. Seller shall make the books and records for the Project available to Buyer for a period of one (1) year after the Closing to permit Buyer's accountants to conduct an audit at Buyer's cost. In connection with such audit, Seller agrees to execute and deliver a letter substantially in the form

of Exhibit "K" hereto. The provisions of this paragraph shall survive Closing.

24. Preparation of Agreement. Although this document has been prepared by counsel to Buyer, it reflects extensive negotiations with the Sellers and Sellers' counsel and shall not be construed against Buyer.

25. Effective Date. The date of this Agreement ("Effective Date") shall be the date upon which the last one of Seller and Buyer has signed this Agreement.

26. Additional Covenants of Seller. Commencing with the Effective Date and continuing until Closing,

(a) Seller agrees not to enter into any new leases, contracts, or any other agreements with respect to the Project without the prior written consent of Purchaser; provided, however, that Seller may enter into mortgage(s) on the conditions hereinbefore set forth.

(b) Seller agrees to cooperate fully with Purchaser with respect to Purchaser's efforts to obtain all relevant information with respect to the Project; to make available all relevant information in its possession with respect to the Project and the permitted uses thereof; and to satisfy all conditions precedent set forth herein.

(c) From and after the date hereof, Seller agrees not to (i) perform any grading or excavation, construction, or removal of any Improvements, or making any other material change or improvement upon or about the Project; (ii) create or incur, or suffer to exist, any new mortgage, lien, pledge, or

other encumbrance in any way affecting the Project; (iii) order any inventory; (iv) take any action which would materially adversely affect the Project; and (v) committing any waste or nuisance upon the Project; and Seller will maintain and keep the Property in neat condition and will observe all applicable laws, ordinances, regulations, and statutes.

(d) Seller will advise Purchaser promptly of any change known to Seller in the status of its business or in any applicable laws, regulations, restrictions, rulings, or orders which might affect the value or use of the Project to Purchaser of which Seller obtains knowledge.

(e) During the period between the date hereof and the Closing Date, Seller shall continue its existing insurance.

27. Employment Agreement. At Closing, Buyer and Michael A. Seaman shall enter into an "Employment Agreement" containing those terms set forth on Exhibit "L" hereto. The form of the Employment Agreement shall be agreed to during the Examination Period.

28. Covenant and Agreement. At Closing, Buyer and Seller and all other appropriate parties shall enter into a "Declaration of Covenants" with respect to (i) the Excluded Business and (ii) the Other Real Estate in the area of the Real Estate owned by Seller and described on Exhibit "M" hereto. This Declaration shall provide in relevant part that the Excluded Business and any other business conducted on the Other Real Estate shall be operated in a first class manner that shall not

adversely affect the Project. The specific restrictions set forth on Exhibit "M-1" shall apply to the Excluded Business and the specific restrictions set forth on Exhibit "M-2" shall apply to the Other Real Estate. The Declaration of Covenants, or a memorandum thereof, shall be recorded at Closing. The form of Declaration of Covenants shall be agreed to during the Examination Period.

29. Miniature Golf. Prior to Closing, Buyer may commence construction of miniature golf, batting cages and other desired alterations and construction on the Real Estate provided that:

- (a) Buyer obtains all permits and governmental approvals;
- (b) All construction is done in a good and workmanlike manner, lien-free and in accordance with all applicable laws; and
- (c) Buyer shall indemnify Seller from any loss, cost, damage or expense whatsoever arising out of or in connection with such construction.

The provisions hereof shall survive Closing in the event Buyer does not commence construction before Closing.

30. Other Location. Seller is in negotiations with an unrelated third party with respect to the potential purchase of a golf center facility known as "Briarwood Plaza, Hamburg, New York" (the "Other Facility"). Buyer will replace Seller at Closing if Buyer wants to pursue the negotiations for the Other Facility. If Buyer notifies Seller of its desire to proceed,

Buyer shall coordinate all negotiations with Seller and, as appropriate replace Seller at Closing. If Buyer closes on the Other Facility, Buyer shall pay to Seller a Finder's Fee of \$300,000.00. If Buyer does not close on the Other Facility, Seller, in compliance with Section 15 hereof, shall not acquire (or lease) the Other Facility.

31. Facsimile. The parties agree that a facsimile transmission of the signed Agreement constitutes an original and binding document.

32. Counterparts. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

33. Right of First Refusal. At closing, Seller shall grant to Buyer the following rights of first refusal:

- (a) The sale or lease of the Excluded Business;
- (b) The sale of the Real Estate; and
- (c) The sale or lease of the Other Real Estate.

The terms of each right of first refusal shall be as set forth in Section 30 of the New Lease.

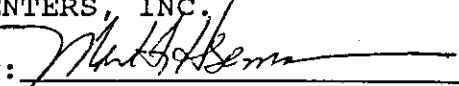
34. Governing Law. This Agreement will be interpreted and construed under the laws of the State of New York.

35. Security Agreement. At Closing, Buyer shall execute and deliver a "Security Agreement" encumbering the tangible personal property acquired hereunder to secure the Note and Buyer's obligations for the initial term of the Ground Lease.

IN WITNESS WHEREOF, the parties have executed this Agreement for themselves, their respective heirs, executors, personal representatives, successors and assigns.

BUYER:

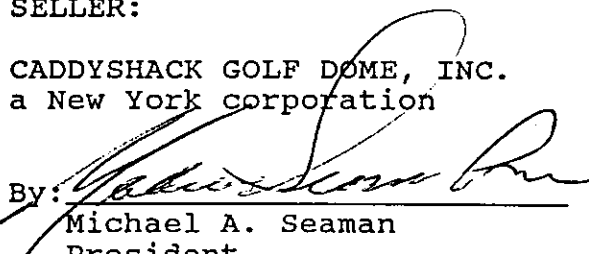
GOLDEN BEAR GOLF  
CENTERS, INC.

By:   
Name: MARK F. HESEMANNN  
Title: SR. VICE PRESIDENT

Date: 1/31/97

SELLER:

CADDYSHACK GOLF DOME, INC.  
a New York corporation

By:   
Michael A. Seaman  
President

Date: 1/31/97

ESCROW AGENT:

Robert M. Pusateri

SEEN AND AGREED:

  
Michael A. Seaman

IN WITNESS WHEREOF, the parties have executed this Agreement for themselves, their respective heirs, executors, personal representatives, successors and assigns.

BUYER:

GOLDEN BEAR GOLF  
CENTERS, INC.

By: 

Name: MARK F. HESEMANNN

Title: SK. VICE PRESIDENT

Date: 1/31/97

SELLER:

CADDYSHACK GOLF DOME, INC.  
a New York corporation

By: 

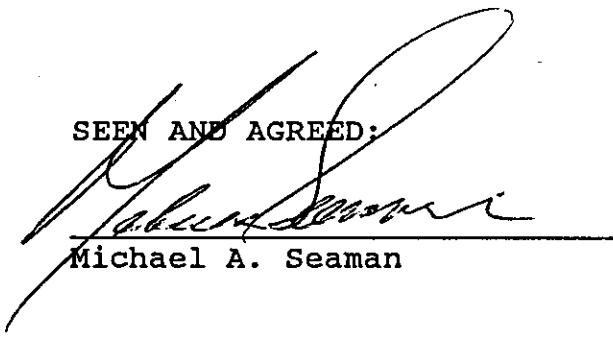
Michael A. Seaman  
President

Date: 1/31/97

ESCROW AGENT:

Robert M. Pusateri

SEEN AND AGREED:

  
Michael A. Seaman



SCHEDULE OF EXHIBITS

Exhibit "A"	Improvements
Exhibit "B"	Real Estate
Exhibit "B-1"	Common Area
Exhibit "C"	New Lease
Exhibit "D"	Tangible Personal Property
Exhibit "E"	Purchase Price
Exhibit "E-1"	Escrow Conditions
Exhibit "E-2"	Note
Exhibit "F"	Existing Liens
Exhibit "G"	Service Contracts
Exhibit "H"	Operating Statements
Exhibit "I"	Liabilities
Exhibit "I-1"	Liabilities Assumed by Buyer
Exhibit "J"	Personal Property Leases
Exhibit "K"	Audit Letter
Exhibit "L"	Terms of Employment Agreement
Exhibit "M"	Other Real Estate
Exhibit "M-1"	Excluded Business Restrictions
Exhibit "M-2"	Other Real Estate Restrictions
Schedule "A"	Insurance

ALL EXHIBITS NOT APPENDED HERETO AT EXECUTION HEREON SHALL BE  
AGREED TO BY BUYER AND SELLER DURING THE EXAMINATION PERIOD.

January 24, 1997

CADDYSHACK GOLF DOME, INC.

Equipment List:

Packer Bell Force 250 Computer/Speakers  
Packer Bell Monitor/Key Board  
Hewlett Packard Laser Jet 4L Printer/Stand  
Sentry Floor Safe  
Casio Adding Machine  
Office furniture - desk, chair, countertop  
Mita DC-1255 Copy machine and stand  
Comtel Phone System - 3 phones  
2 Holmes space heaters  
1 Samsung 13" color tv, Grokyonic VCR  
2 Radio Shack Walkie Talkies  
The System Register  
150 Plastic Buckets - 75 Steel Buckets  
85 Golfmats/Tees  
1 Easypicker Ball Dispenser 13,000 balls  
1 Wittek Ball Dispenser 13,000 balls  
20,000 Golf Balls  
75 Bag Stands  
32 Plastic Benches  
23 Plastic Tables  
12 Flag Sticks and Flags  
1 Full Swing Golf Simulator  
1 Full Swing Trainer  
1 Dream Green  
1 Restore A Grid Machine  
1 Wittek Club Cleaner Machine  
1 John Deere Gator Cart/Picker  
1 Yamaha Golf Cart/Picker  
1 Wittek Ball Washer Model No. W-87 (Large)  
1 Tensar Structure Golf Dome  
240' x 300' x 70' Blowers/Heaters  
2 Training Golf Mirrors  
Dome Poles, Lights and Fixtures & Outdoor Range Poles, Lights &  
Fixtures  
Miscellaneous Tools and Benches (Maintenance Tools)  
1 Push Cart  
All Flowers, Plants, Trees - Dome & Common Area  
Sear's Air Compressor  
28 Wooden Benches  
30 Pieces of Art Work, Common Area and Dome  
Astro Turf/Putting Greens  
All miscellaneous golf items from Dome

EXHIBIT "E-2"

PROMISSORY NOTE

\$800,000.00

Palm Beach Gardens, Florida  
JUN. 31, 1997

FOR VALUE RECEIVED, GOLDEN BEAR GOLF CENTERS, INC., a Florida corporation, having its principal address at Three Golden Bear Plaza, 11780 U.S. Highway One, North Palm Beach, Florida 33408 (the "Maker") promises to pay to the order of CADDYSHACK GOLF DOME, INC., at 5280 Welch Dr. Williamsville NY (the "Payee") or such other place as the Holder hereof may designate in writing (the legal holder from time to time of this Note, including Payee as the initial holder, hereinafter referred to as "Holder"), the principal sum of EIGHT HUNDRED THOUSAND DOLLARS (\$800,000.00) (hereinafter referred to as "Principal Indebtedness"), together with interest thereon on the unpaid principal balance thereof at the rate of 9% per annum, in accordance with the provisions hereinafter set forth.

1. Terms of Payment. Maker shall pay to Holder on the first day of the calendar month of each calendar quarter commencing on June 1, 1997 to and including the Maturity Date (hereinafter defined) (such payment dates being hereinafter referred to as "Payment Dates") \$28,571.43 plus interest on the unpaid Principal Indebtedness.

On March 1, 2005 (the "Maturity Date"), Maker shall pay to Holder the entire Principal Indebtedness then remaining unpaid, together with accrued and unpaid interest thereon and any other charges due under this Note. The period from and including the date hereof to the Maturity Date will be referred to, hereinafter, as the "Term".

2. Prepayment. Maker may pay the Principal Indebtedness in whole or in part at any time without premium or penalty. All partial prepayments shall be applied in direct order of maturity.

3. Location and Medium of Payments. The sums payable under this Note shall be paid to Holder at its principal address hereinabove set forth, or at such other place as Holder may from time to time hereafter designate to Maker in writing, in legal tender of the United States of America.

4. Acceleration of Maturity. At the option of Holder, which may be exercised at any time after one or more of the following events (each being an "Event of Default") shall have occurred, the whole of the Principal Indebtedness, together with all interest and other charges due hereunder, shall immediately become due and payable ("Acceleration of Maturity"): if any payment of any installment of the Principal Indebtedness, and/or interest is not received by Holder on the date when such payment was due and such nonpayment continues for ten (10) business days after Maker receives notice of non-payment from Holder.

5. Late Charges: Interest Following Event of Default. If any payment due under this Note, is not paid within ten (10) business days of the date due, without regard to any cure or grace period, Maker shall pay, and Holder shall be entitled to collect, a late payment charge for each month or fraction thereof during which such payment is not made when due and for each month thereafter that such sum remains unpaid, equal to five percent (5%) of such late payment, for the purpose of defraying the expense incurred by Holder in handling and processing such delinquent payment.

6. Collection and Enforcement Costs. Maker, upon demand, shall pay Holder for all costs and expenses, including without limitation reasonable attorneys' fees, paid or incurred by Holder in connection with the collection of any sum due hereunder after default by Maker and expiration of the applicable grace period.

7. Applicable Law. The provisions of this Note shall be construed and enforceable in accordance with the laws of the State of New York.

8. Usury. It is hereby expressly agreed that if from any circumstances whatsoever fulfillment of any provision of this Note, at the time performance of such provision shall be due, shall involve transcending the limit of validity presently prescribed by any applicable usury statute or any other law, with regard to obligations of like character and amount, then ipso facto the obligation to be fulfilled shall be reduced to the limit of such validity, so that in no event shall any exaction be possible under this Note that is in excess of the limit of such validity. In no event shall Maker be bound to pay for the use, forbearance or detention of the money loaned pursuant hereto, interest of more than the current legal limit; the right to demand any such excess being hereby expressly waived by Holder.

9. Notice. Any notice, request, demand, statement or consent made hereunder shall be in writing signed by the party giving such notice, request, demand, statement or consent, and shall be deemed to have been properly given when either delivered personally, delivered to a reputable overnight delivery service providing a receipt or deposited in the United States Mail, postage prepaid and registered or certified return receipt requested, at the address set forth below, or at such other address within the continental United States of America as may have theretofore been designated in writing. The effective date of any notice given as aforesaid shall be the date of personal delivery, one (1) business day after delivery to such overnight delivery service, or three (3) business days after being deposited in the United States Mail, whichever is applicable. For purposes hereof, the addresses are as follows:

If to Holder:

With a copy to:

Robert M. Pusateri, Esq.  
Smith, Speranza, Pusateri,  
Fitzgerald, Foltz & May  
131 East Avenue  
Post Office Box 540  
Lockport, New York 14095-0540

## EXHIBIT E-1

### ESCROW CONDITIONS

1. No person, firm, corporation or other entity will be recognized by the Escrow Agent as a successor, heir or personal representative of any party hereto until there shall be presented to the Escrow Agent evidence satisfactory to it of such succession.

2. The Escrow Agent shall have no duties or responsibilities except as expressly provided in this Agreement and shall neither be obligated to recognize nor have any liability or responsibility arising under any other agreement to which the Escrow Agent is not a party, even though reference thereto may be made herein.

3. The Escrow Agent shall not be responsible for the identity, authority or rights of any person, firm, corporation or other entity, executing or delivering or purporting to execute or deliver this Agreement or any document or security deposited thereunder.

4. The Escrow Agent shall not be responsible for the sufficiency, genuineness or validity of or title to any document or security deposited or to be deposited with it pursuant to any provisions of this Agreement.

5. The Escrow Agent may rely upon any instrument or writing reasonably believed by it to be genuine and sufficient and properly presented.

6. The Escrow Agent shall be liable hereunder solely in the event of gross negligence or wilful misconduct.

7. In case any property held by the Escrow Agent hereunder shall be attached, garnished or levied upon under any order of court, or the delivery thereof shall be stayed or enjoined by any court order, or any other order, judgment or decree shall be made or entered by any court or administrative agency affecting such property, or any part thereof, or any act of the Escrow Agent, the Escrow Agent is hereby expressly authorized in its discretion to obey and comply with all writs, orders, judgments or decrees so entered or issued, whether with or without jurisdiction, and in case the Escrow Agent obeys and complies with any such writ, order, judgment or decree it shall not be liable to any of the parties hereto, their successors, heirs or personal representatives or to any other person, firm or corporation, by reason of such compliance notwithstanding that such writ, order, judgment or decree be subsequently reversed, modified, annulled, set aside or vacated.

8. In the event of doubt by the Escrow Agent as to its duties or liabilities under the provisions of this Agreement, the Escrow Agent shall, unless all interested parties

mutually agree by a written instrument delivered to the Escrow Agent, deposit all the monies and other property then held pursuant to this agreement with the Court having jurisdiction of the dispute, and upon notifying all parties concerned of such action, all liability on the part of the Escrow Agent shall fully terminate, except to the extent of accounting for the monies or property theretofore delivered out of escrow. In the event of any suit between any parties with any interest herein wherein the Escrow Agent is made a party by virtue of acting as Escrow Agent hereunder, or in the event of any suit wherein Escrow Agent interpleads the subject matter of this escrow, the Escrow Agent shall be entitled to recover from the parties a reasonable attorney's fee and costs incurred, said fees and costs to be charged and assessed as court costs in favor of the prevailing party.

9. The parties acknowledge that Robert M. Pusateri is legal counsel to Seller in connection with this Agreement and all matters contemplated hereby. In the event of any suit in connection with this Agreement, the parties agree and consent that Robert M. Pusateri may represent Seller in any such legal action and will not be disqualified on the basis of conflict of interest or any other grounds arising from having acted as Escrow Agent in this transaction.

If to Maker:

Golden Bear Golf Centers, Inc.  
Three Golden Bear Plaza  
11780 U.S. Highway One  
North Palm Beach, Florida 33408

With a copy to:

David M. Shaw, Esq.  
Fleming, Haile & Shaw, P.A.  
440 Royal Palm Way, Suite 100  
Palm Beach, Florida 33480

10. Set-off. Maker shall have a right of set-off hereunder for any claims against Payee under the "Agreement" dated January 31, 1997 between Payee and Maker.

11. Assignment. For three years after the date hereof, neither this Note nor the payments due hereunder may be assigned or hypothecated by Holder.

IN WITNESS WHEREOF, Maker has duly executed this Note as a sealed instrument as of the day and year first above written.

MAKER:

GOLDEN BEAR GOLF CENTERS, INC.

By: Mark F. Heseemann

Name: MARK F. HESEMANNN  
Title: SR. VICE PRESIDENT

STATE OF FLORIDA           )  
  )  
COUNTY OF PALM BEACH   )

I HEREBY CERTIFY that on this day personally appeared before me, Mark F. Heseemann, as Sr. Vice President of GOLDEN BEAR GOLF CENTERS, INC., who is personally known to me or who has produced \_\_\_\_\_ as identification and who executed the foregoing and acknowledged before me that he executed the same for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 30<sup>th</sup> day of January, 1997.

Maureen E. Donnelly  
Notary Public

My Commission Expires:

Name: Maureen E. Donnelly



Maureen E. Donnelly  
MY COMMISSION # CC570000 EXPIRES  
July 26, 2000  
BONDED THRU TROY FAIR INSURANCE, INC.





BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS:

That CADDYSHACK GOLF DOME, INC., a New York corporation ("Grantor"), for and in consideration of the sum of TEN DOLLARS (\$10.00) in lawful money (and other good and valuable consideration) to it paid by GOLDEN BEAR GOLF CENTERS, INC., a Florida corporation ("Grantee"), the receipt of which is hereby acknowledged by it, has granted, bargained, sold, transferred, set over and delivered, and by these presents does grant, bargain, sell, transfer, set over and deliver unto the Grantee, its successors and assigns, all those certain goods and chattels described as follows:

All tangible personal property of Grantor used in connection with the operation of the Caddyshack Golf Dome, Williamsville, New York (the "Facility"), including, but not limited to, the personal property described on Exhibit "A" hereto and existing dome facility and the software utilized in connection therewith.

All of the rights, title and interest of Grantor related to all leasehold improvements and signs at the Facility.

Except as set forth in the Agreement dated January 31, 1997 between Grantor and Grantee, any statement or other warranty including warranties of merchantability of fitness for a particular purpose, condition, description, or any representation, express or implied, as to the state, quality, or fitness of the aforesaid goods, chattels and property, are hereby excluded and disclaimed.

Grantor covenants with Grantee that it is lawfully seized of said property.

TO HAVE AND TO HOLD the same unto the Grantee, its successors and assigns forever.

IN WITNESS WHEREOF, Grantor has executed this Bill of Sale of this 28th day of February, 1997.

WITNESSES:

GRANTOR:

CADDYSHACK GOLF DOME, INC., a  
New York corporation

Robert M. Pusateri  
Name: ROBERT M. PUSATERI

Diane D. Dayer  
Name: DIANE D. DAYER

By: Michael A. Seaman  
Name: MICHAEL A. SEAMAN  
Title: President

STATE OF NEW YORK )  
 ) SS:  
COUNTY OF NIAGARA )

BEFORE ME, a Notary Public authorized to take acknowledgments in the State and County set forth above, personally appeared MICHAEL A. SEAMAN, as President of CADDYSHACK GOLF DOME, INC., a New York corporation, who is personally known by me ~~or has produced~~

as identification  
and known to me and known by me to be the individual who executed the foregoing instrument for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 28th day of February, 1997.

Robert M. Pusateri  
Notary Public

My Commission Expires:

Typed or Printed Name

ROBERT M. PUSATERI  
Notary Public, State of New York  
Qualified in Niagara County  
My Commission Expires 7/10/98

January 24, 1997

EXHIBIT "A"

CADDYSHACK GOLF DOME, INC.

Equipment List:

Packer Bell Force 250 Computer/Speakers  
Packer Bell Monitor/Key Board  
Hewlett Packard Laser Jet 4L Printer/Stand  
Sentry Floor Safe  
Casio Adding Machine  
Office furniture - desk, chair, countertop  
Mita DC-1255 Copy machine and stand  
Comtel Phone System - 3 phones  
2 Holmes space heaters  
1 Samsung 13" color tv, Grokyonic VCR  
2 Radio Shack Walkie Talkies  
The System Register  
150 Plastic Buckets - 75 Steel Buckets  
85 Golfmats/Tees  
1 Easypicker Ball Dispenser 13,000 balls  
1 Wittek Ball Dispenser 13,000 balls  
20,000 Golf Balls  
75 Bag Stands  
32 Plastic Benches  
23 Plastic Tables  
12 Flag Sticks and Flags  
1 Full Swing Golf Simulator  
1 Full Swing Trainer  
1 Dream Green  
1 Restore A Grid Machine  
1 Wittek Club Cleaner Machine  
1 John Deere Gator Cart/Picker  
1 Yamaha Golf Cart/Picker  
1 Wittek Ball Washer Model No. W-87 (Large)  
1 Tensar Structure Golf Dome  
240' x 300' x 70' Blowers/Heaters  
2 Training Golf Mirrors  
Dome Poles, Lights and Fixtures & Outdoor Range Poles, Lights &  
Fixtures  
Miscellaneous Tools and Benches (Maintenance Tools)  
1 Push Cart  
All Flowers, Plants, Trees - Dome & Common Area  
Sear's Air Compressor  
28 Wooden Benches  
30 Pieces of Art Work, Common Area and Dome  
Astro Turf/Putting Greens  
All miscellaneous golf items from Dome

ASSIGNMENT OF INTANGIBLE PERSONAL PROPERTY

THIS ASSIGNMENT, dated as of the 28th day of February, 1997, by and between CADDYSHACK GOLF DOME, INC., a New York corporation ("Assignor") and GOLDEN BEAR GOLF CENTERS, INC., a Florida corporation ("Assignee"), recites and provides as follows:

## RECITALS:

By Agreement dated January 31, 1997 (the "Agreement"), Assignor agreed to transfer to Assignee, and Assignee agreed to accept from Assignor, on the terms and conditions set forth therein, the assets and certain rights with respect to the golf center project known as "Caddyshack Golf Dome" (the "Project") located in Williamsville, New York.

As provided in the Agreement, Assignor desires to assign and convey to Assignee all of its rights, title and interest in and to all the hereinafter described "Intangibles" now owned, held or used by the Assignor in connection with the Project.

AGREEMENT:

NOW, THEREFORE, for and in consideration of the sum of TEN DOLLARS (\$10.00), cash in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, Assignor hereby sells, assigns, transfers and conveys unto Assignee all of its right, title and interest, if any, in and to all contracts, licenses, permits, approvals, impact fee payments, entitlements, vested rights, restrictive covenants, developer agreements and related or similar intangible personal property owned or held by Assignor in connection with the Project and the assets (collectively, the "Intangibles"), including, but not limited to, all Intangibles described on Schedule "A" hereto.

Assignor further agrees to provide such further evidence of such assignment as may reasonably be requested by any third party to confirm or ratify the assignment contemplated hereby.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their heirs, successors and assigns.

This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall be an original, but all counterparts shall together constitute one and the same instrument.

If the personal property transferred to Assignee by Assignor shall be returned to Assignor for any reason, these intangible rights shall be deemed to be returned as well.

IN WITNESS WHEREOF, each Assignor has caused this Assignment to be executed in its name by its duly authorized officer.

CADDYSHACK GOLF DOME, INC.

By: 

Name: MICHAEL A. SEAMAN

Title: President

January 24, 1997

EXHIBIT "A"

CADDYSHACK GOLF DOME, INC.

Equipment List:

Packer Bell Force 250 Computer/Speakers  
Packer Bell Monitor/Key Board  
Hewlett Packard Laser Jet 4L Printer/Stand  
Sentry Floor Safe  
Casio Adding Machine  
Office furniture - desk, chair, countertop  
Mita DC-1255 Copy machine and stand  
Comtel Phone System - 3 phones  
2 Holmes space heaters  
1 Samsung 13" color tv, Grokyonic VCR  
2 Radio Shack Walkie Talkies  
The System Register  
150 Plastic Buckets - 75 Steel Buckets  
85 Golfmats/Tees  
1 Easypicker Ball Dispenser 13,000 balls  
1 Wittek Ball Dispenser 13,000 balls  
20,000 Golf Balls  
75 Bag Stands  
32 Plastic Benches  
23 Plastic Tables  
12 Flag Sticks and Flags  
1 Full Swing Golf Simulator  
1 Full Swing Trainer  
1 Dream Green  
1 Restore A Grid Machine  
1 Wittek Club Cleaner Machine  
1 John Deere Gator Cart/Picker  
1 Yamaha Golf Cart/Picker  
1 Wittek Ball Washer Model No. W-87 (Large)  
1 Tensar Structure Golf Dome  
240' x 300' x 70' Blowers/Heaters  
2 Training Golf Mirrors  
Dome Poles, Lights and Fixtures & Outdoor Range Poles, Lights &  
Fixtures  
Miscellaneous Tools and Benches (Maintenance Tools)  
1 Push Cart  
All Flowers, Plants, Trees - Dome & Common Area  
~~Sear's~~ Air Compressor  
28 Wooden Benches  
30 Pieces of Art Work, Common Area and Dome  
Astro Turf/Putting Greens  
All miscellaneous golf items from Dome

## RIGHT OF FIRST REFUSAL AGREEMENT

In accordance with the provisions of Section 33 of the "Agreement" dated January 31, 1997 between CADDYSHACK GOLF DOME, INC. as "Seller" and GOLDEN BEAR GOLF CENTERS, INC. as "Buyer," Buyer and Seller hereby agree as follows:

1. Grant.

- (a) If at any time during the term of the Ground Lease between Buyer and Seller of even date herewith, Seller shall receive and be willing to accept a bona fide offer from a third party or shall desire to make an offer to any third party with respect to any of the properties hereinafter described, Seller shall promptly transmit to Buyer a written offer upon the same terms and conditions as are set forth in the third party offer or Seller's offer to such third party, as the case may be, together with a true copy of such offer, and shall give Buyer sixty (60) days to accept such offer. If Buyer shall accept such offer by written notice to Seller within such time, the offer and acceptance shall constitute a contract between them, such contract to be consummated within sixty (60) days thereafter.
- (b) The properties which are subject to the right of first refusal are described as follows:
  - (i) The sale or lease of the "Excluded Businesses" described in the Agreement.
  - (ii) The sale of the "Real Estate" described on Exhibit



"A" hereto.

2. Memorandum. The parties shall execute and record a Memorandum of this Agreement in the appropriate and records.

3. General Provisions.

3.1 Amendment. This Agreement may not be amended, altered or modified except by a writing signed by the parties hereto.

3.2 Addresses. All notices under this Agreement shall be in writing and shall be delivered by overnight commercial delivery service, or by certified or registered mail, postage prepaid, return receipt requested, to the parties at the following addresses:

If to Buyer:

Golden Bear Golf Centers  
Inc.  
11780 U.S. Highway One  
North Palm Beach, FL 33408  
Attention: President

With a copy to:

David M. Shaw, Esq.  
Fleming, Haile & Shaw, P.A.  
440 Royal Palm Way, Suite 100  
Palm Beach, Florida 33480

If to Seller:

Robert M. Pusateri, Esq.  
Smith, Speranza, Pusateri,  
Fitzgerald, Foltz & May  
131 East Avenue  
Post Office Box 540  
Lockport, New York 14095-0540

By giving to the other parties at least thirty (30) days' written notice thereof, the parties hereto and their respective successors and assigns shall have the right from time to time and at any time during the term of this Agreement to change their respective addresses for notice and each shall have the right to specify as its or his address for notices any other address

within the United States of America.

3.3 Attorneys' Fees. Should any litigation be commenced between any of the parties hereto or their representatives or should any party institute any proceeding in a bankruptcy or similar court which has jurisdiction over any other party hereto or any or all of his or its property or assets concerning any provision of this Agreement or the rights and duties of any person or entity in relation thereto, the party or parties prevailing in such litigation shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for his or its or their attorneys' fees and court costs in such litigation, or any appeals connected therewith, which shall be determined by the court in such litigation or in a separate action brought for that purpose.

3.4 Validity. In the event that any provisions of this Agreement shall be held to be invalid or unenforceable, the same shall not affect in any respect whatsoever the validity or enforceability of the remainder of this Agreement.

3.5 Survival of Rights. This Agreement shall be binding upon and inure to the benefit of the parties signatory hereto, their respective heirs, executors, legal representatives, successors and assigns.

3.6 Waiver. No consent or waiver, express or implied, by any party hereto in the performance by any other party of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any breach or default.

3.7 Counterparts. This Agreement may be executed in any

number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same agreement.

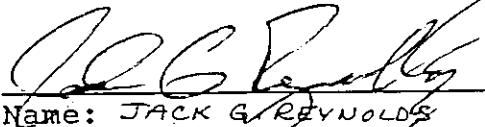
3.8 Further Assurances. Each party hereto agrees to do all acts and things and to make, execute and deliver such written instruments, as shall from time to time be reasonably required to carry out the terms and provisions of this Agreement.

3.9 Authority. Buyer and Seller each warrant and represent to the other that they have full power and authority to enter into and consummate this Agreement.

WITNESS the following signatures as of the 28th day of February, 1997.

BUYER:

GOLDEN BEAR GOLF CENTERS, INC.

By:   
Name: JACK G. REYNOLDS  
Title: TREASURER

SELLER:

CADDYSHACK GOLF DOME, INC.

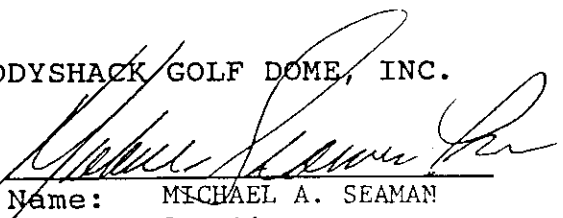
By:   
Name: MICHAEL A. SEAMAN  
Title: President

EXHIBIT "A"

PARCEL 1

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Clarence, County of Erie and State of New York, being part of Lot No. 9, Section 13, Township 12, Range 6 of the Holland Land Company's Survey, more particularly bounded and described as follows:

BEGINNING at a point in the center line of Wehrle Drive, which is also the south line of Lot No. 9 and the southwest corner of premises deeded to Thomas A. Miller, Jr. by deed recorded in the Erie County Clerk's Office in Liber 10214 of Deeds at Page 613; thence northerly along the west line of premises so deeded to Thomas A. Miller, Jr. and parallel with the east line of said Lot No. 9 a distance of 390 feet to a point in the west line of said premises so deeded to Miller; thence easterly a distance of 550.00 feet to a point 390.00 feet north of the center line of Wehrle Drive as measured along a line intersecting the said center line at a point 550.00 feet eastely from the point of beginning, measured along said centerline, and intersecting said center line at an included angle of 88 degrees 23' 21"; thence southerly along the line so intersecting the center line of Wehrle Drive a distance of 390.00 feet to the center line of Wehrle Drive; thence westerly along the center line of Wehrle Drive and south line of said Lot No. 9 a distance of 550.00 feet to the point or place of beginning.

PARCEL 2

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Clarence, County of Erie and State of New York, being part of Lot No. 9, Section 13, Township 12, Range 6 of the Holland Land Company's Survey, more particularly bounded and described as follows:

BEGINNING at a point in the center line of Wehrle Drive which is also the south line of Lot No. 9 at the southwest corner of premises deeded to Thomas A. Miller, Jr. by deed recorded in the Erie County Clerk's Office in Liber 10214 of Deeds at Page 613; thence northerly along the west line of premises so deeded to Thomas A. Miller, Jr. and parallel with the east line of Lot No. 9 a distance of 390 feet to the true point of beginning; thence northerly still along the west line of premises so deeded to Thomas A. Miller, Jr. a distance of 840 feet; thence eastely and parallel to the center line of Wehrle Drive 550 feet to a point; thence south and parallel to the west line of premises so deeded to Thomas A. Miller, Jr. 840 feet; thence west a distance of 550 feet to the point of beginning.

SECURITY AGREEMENT

In consideration of the agreements of the parties hereinafter set forth, the undersigned Debtor grants to the Secured Party named herein a security interest in the collateral described in paragraph 3. The security interest under this Agreement secures payment of all of the Debtor's indebtedness, obligations or liabilities owed to the Secured Party (a) under that certain Promissory Note payable to the Secured Party from Debtor and (b) during the initial term of that certain Ground Lease between Secured Party and Debtor of even date herewith.

1. The DEBTOR is GOLDEN BEAR GOLF CENTERS, INC., a Florida corporation, whose address is 11780 U.S. Highway One, Suite 400, North Palm Beach, Florida 33408.

2. The SECURED PARTY is CADDYSHACK GOLF DOME, INC., a New York corporation, whose address is 8230 Wehrle Drive, Williamsville, New York 14221.

3. DESCRIPTION OF COLLATERAL:

All of the tangible personal property acquired by Debtor from Secured Party pursuant to that certain Agreement, dated January 31, 1997 between Debtor and Secured Party.

4. DEBTOR'S WARRANTIES AND REPRESENTATIONS: Debtor warrants as follows:

a. Title. Debtor has title to the collateral pledged, and owns it free of any prior liens, security interest or encumbrances

of any kind, other than liens for taxes not delinquent, and those claims and liens caused by Secured Party.

b. Authority. Debtor has authority to enter into this agreement, and the person signing it is authorized by Debtor to execute this agreement.

5. DEBTOR'S COVENANTS AND AGREEMENTS: Debtor covenants and agrees as follows:

a. Payment. Debtor will pay the indebtedness under the aforesaid Promissory Note and Ground Lease promptly when due.

b. Information and Documents. Upon the Secured Party's demand, Debtor will execute any financing statements, agreements or documents reasonably necessary or advisable to carry out the purposes of this Security Agreement. Debtor shall further keep accurate and complete records of the collateral and its location.

c. Location. The collateral shall remain in Debtor's possession and control at all times at Debtor's risk of loss and shall be kept in their current location at the golf center at 8230 Wehrle Drive, Williamsville, New York.

d. Sale, Lease or Disposition. Until the indebtedness to Secured Party is discharged, Debtor will not transfer, assign, sell, contract to sell, lease, encumber, or otherwise dispose of the collateral except in the ordinary course of business.

e. Insurance. Debtor shall for the duration of this Security Agreement maintain in force insurance on the collateral for casualty loss.

f. Taxes. Debtor will pay when due all taxes relating to the collateral.

g. Waiver. Debtor waives any right to require the Secured Party to proceed against another person or to exhaust the collateral or to pursue any other remedy which the Secured Party may have. Debtor waives presentment, demand for performance, notice of performance, protest, notice of protest, and dishonor with respect to the collateral. Debtor waives the right to require the Secured Party to preserve rights against prior parties to instruments or chattel paper.

6. SECURED PARTY'S OBLIGATION UPON TERMINATION. Upon Debtor's payment of the entire indebtedness under the Promissory Note and initial term of the Ground Lease, the Secured Party shall cause to be prepared and filed with the appropriate authorities a written termination statement acknowledging termination of its security interest, and any other documentation as reasonably required by debtor indicating payment in full as well as terminating of Secured Party's security interest in the collateral.

7. DEFAULT AND REMEDIES. Debtor agrees that if (a) a warranty or representation hereunder is false; (b) Debtor fails to pay any indebtedness secured hereby; (c) Debtor violates any covenant or agreement hereunder; (d) bankruptcy or insolvency proceedings are instituted by or against Debtor; or (e) Debtor makes any assignment for the benefit of creditors, Debtor shall be in default, and if said default is not cured within seven (7) days (or such additional time as may be agreed upon) after written notice thereof, the Secured Party shall have all the rights and remedies available under the New York Uniform Commercial Code.

8. RULES OF CONSTRUCTION. The parties understand and agree that:

a. Waiver. It will not constitute a modification of this agreement or a waiver of a similar or subsequent default if the Secured Party accepts a partial or delinquent payment or fails to exercise a right or remedy.

b. Applicability. This agreement applies to, bonds and shall inure to the benefit of the Secured Party and Debtor, and to their respective heirs, successors and assigns.

c. Governing Law. The law governing this secured transaction shall be New York law.

d. Entire Agreement. This agreement, together with the aforesaid Promissory Note, contains the entire Security Agreement among the parties.

DEBTOR:

GOLDEN BEAR GOLF CENTERS, INC.

Dated: 2-27-97

By: [Signature]  
Its: President

SECURED PARTY:

CADDYSHACK GOLF DOME, INC.

Dated: 2/28/97

By: [Signature]  
Its: President





GROUND LEASE

between

CADDYSHACK GOLF DOME, INC.

as Lessor,

and

GOLDEN BEAR GOLF CENTERS, INC. ✓

as Lessee.

Dated as of March 1, 1997

Property:

Golden Bear Golf Center  
Williamsville, New York

Lease Commencement Date:

March 1, 1997

1.	<u>DEMISE OF PREMISES</u> .....	1
2.	<u>CERTAIN DEFINITIONS</u> .....	1
3	<u>TITLE AND CONDITION</u> .....	2
4	<u>USE OF PROPERTY; QUIET ENJOYMENT</u> .....	2
5	<u>TERM</u> .....	2
6.	<u>RENT</u> .....	3
7.	<u>NET LEASE; NON-TERMINABILITY</u> .....	3
8.	<u>TAXES AND ASSESSMENTS; COMPLIANCE WITH LAW</u> .....	3
9.	<u>INTENTIONALLY DELETED</u> .....	5
10.	<u>INDEMNIFICATION</u> .....	5
11.	<u>MAINTENANCE AND REPAIR</u> .....	5
12	<u>ALTERATIONS</u> .....	5
13.	<u>CONDEMNATION</u> .....	6
14.	<u>CASUALTY</u> .....	8
15.	<u>ASSIGNMENT, SUBLETTING AND MORTGAGING</u> .....	8
16.	<u>PERMITTED CONTESTS</u> .....	8
17.	<u>CONDITIONAL LIMITATIONS, DEFAULT PROVISION</u> .....	9
18.	<u>ADDITIONAL RIGHTS OF LESSOR</u> .....	12
19.	<u>NOTICES, DEMANDS AND OTHER INSTRUMENTS</u> .....	12
20.	<u>ESTOPPEL CERTIFICATE</u> .....	13
21.	<u>SURRENDER</u> .....	14
22.	<u>SEPARABILITY</u> .....	14
23.	<u>ENCUMBRANCE BY LESSOR</u> .....	14
24.	<u>APPRAISERS</u> .....	14

25.	<u>INSURANCE</u> .....	15
26.	<u>LESSEE'S TRADE FIXTURES, SIGNAGE</u> .....	15
27.	<u>HAZARDOUS SUBSTANCE</u> .....	15
28.	<u>ATTORNEYS' FEES</u> .....	16
29.	<u>SHORT FORM OF LEASE</u> .....	17
30.	<u>RIGHTS OF FIRST REFUSAL</u> .....	17
31.	<u>BINDING EFFECT</u> . ....	17
32.	<u>HEADINGS</u> .....	17
33.	<u>GOVERNING LAW</u> .....	17
34.	<u>SET-OFF</u> .....	18
35.	<u>BUILDING</u> .....	18
36.	<u>COMMON AREA</u> .....	18
37.	<u>DOMES</u> .....	19

#### Schedule of Exhibits

Schedule "A"	Real Estate
Schedule "B"	Improvements
Schedule "C"	Common Area

LEASE AGREEMENT dated as of March 1, 1997, between CADDYSHACK GOLF DOME, INC., a New York corporation [herein, together with its successors and assigns, called "Lessor"]], having an address at 8230 Wehrle Drive, Williamsville, New York 14221 and GOLDEN BEAR GOLF CENTERS, INC., a Florida corporation, [herein, together with its successors and assigns, called "Lessee"]], having an address at 11780 U.S. Highway #1, North Palm Beach, Florida 33408.

1. DEMISE OF PREMISES.

(a) In consideration of the rents and covenants herein stipulated to be paid and performed and upon the terms and conditions hereinafter specified, Lessor hereby demises and lets to Lessee, for the term hereinafter described, the premises consisting of

(i) the parcel of land described in Schedule "A" hereto; and;

(ii) all easements, rights and appurtenances relating to such parcel; and

(iii) The portions of the "Building" described on Schedule "B" hereto [such premises being herein called the "Leased Premises"].

(b) The "Dome" located on the land is the property of Lessee.

(c) Any buildings, structures, other improvements, fixtures or personal property hereafter constructed on or placed upon the Leased Premises by Lessee, whether pursuant to this Lease or otherwise, shall be and remain, as between Lessor and Lessee, the property of Lessee.

(d) Lessor hereby grants an easement to Lessee to utilize for the purposes intended [on a non-exclusive basis] the real estate and improvements described on Schedule "C" hereto. This easement shall be coincident with the term hereof.

2. CERTAIN DEFINITIONS.

(a) The term "Improvements" means, all buildings, structures and other improvements on the Leased Premises.

(b) The term "Lessee's Estate" means, all the right, title and interest of Lessee in the Property.

(c) The term "Property" means the Leased Premises and the Improvements described on Schedule "B."

(d) The term "Common Area" means the area encumbered by the Easement described in Section 1(d) above.

3. TITLE AND CONDITION.

The Leased Premises are demised and let subject to

(a) the existing state of the title thereof as of the commencement of the term of this Lease,

(b) any state of facts which an accurate survey might show, and

(c) all zoning regulations, restrictions, rules and ordinances, building restrictions and other laws and regulations, now in effect or hereafter adopted by any governmental authority having jurisdiction over the Property.

4. USE OF PROPERTY; QUIET ENJOYMENT.

(a) Lessee may occupy and use the Property for any lawful purpose.

(b) If and so long as Lessee shall observe and perform all covenants, agreements and obligations required to be observed and performed by it hereunder, Lessor warrants peaceful and quiet occupation and enjoyment of the Leased Premises and the Common Area by Lessee; provided that Lessor and its agents may enter upon and inspect the Leased Premises in a reasonable manner at reasonable times after reasonable notice.

5. TERM.

Subject to the terms, covenants, agreements and conditions herein, Lessee shall have and hold the Leased Premises for

(a) an initial term of ten (10) years commencing on March 1, 1997 and terminating on the last day of February, 2007,

(b) provided Lessee is not in default, Lessee shall have the option to renew this Lease for two renewal terms of five (5) years on the terms and conditions set forth herein by giving written notice to Lessor on or before ninety (90) days prior to the expiration of the then expiring term. If Lessor fails to receive such notice from Lessee, Lessor shall, on or before sixty (60) days prior to the expiration of the then expiring term, to notify Lessee. Lessee shall thereafter have fifteen (15) days to notify Lessor of its election to renew or not to renew. If Lessee fails to give such notice, the option to renew shall terminate.

6. RENT.

(a) Lessee covenants to pay to Lessor, as "Base Rent" during (i) the initial term of this Lease, \$25,000.00 per calendar month, (ii) the first renewal term (if any), \$32,500 per calendar month; and (iii) the second renewal term (if any), \$35,750.00 per calendar month, due and payable in advance on the first day of each calendar month during the initial term and any renewal term hereof, in lawful money of the United States of America at Lessor's address set forth above or at such other place or to such other person as Lessor from time to time may designate in writing.

(b) Lessee covenants to pay and discharge, when the same shall become due, as additional rent, all other amounts, liabilities and obligations which Lessee assumes or agrees to pay or discharge pursuant to this Lease, together with every fine, penalty, interest and cost thereof and, in the event of any failure by Lessee to pay or discharge any of the foregoing, Lessor shall have all rights, powers and remedies provided herein, by law or otherwise in the case of non-payment of the Basic Rent.

7. NET LEASE; NON-TERMINABILITY.

(a) This is a net lease and the Basic Rent and additional rent payable hereunder by Lessee shall be paid without notice or demand, and without set-off, deduction or defense, except as expressly set forth herein.

(b) Except as otherwise expressly provided herein, this Lease shall not terminate nor shall Lessee have any right to terminate this Lease or be entitled to any abatement or reduction of rent hereunder for any reason.

8. TAXES AND ASSESSMENTS; COMPLIANCE WITH LAW.

(a) Subject to Paragraph .16, Lessee shall pay, when due:

(i) all taxes, assessments (including assessments for benefit from public works or improvements whether or not begun or completed prior to the commencement of the term of this Lease and whether or not to be completed, within said term), if due and payable during said term, levies, fees, water and sewer rents and charges, and all other governmental charges, general and special, ordinary and extraordinary, together with any interest and penalties which are, at any time, imposed or levied upon or assessed against

(A) the Property or any part thereof, and

(B) this Lease or the leasehold estate hereby created, or which arise in respect of the occupancy, use, operation or possession of the Property,

(ii) all sales or use taxes which may be levied or assessed against or payable by Lessee on account of the acquisition, leasing or use of the Property or any part thereof, and

(iii) all charges for water, gas, light, heat, telephone, electricity, power and other utility and communications services rendered or used on or about the Property.

Notwithstanding the foregoing provisions of this Paragraph 8(a), Lessee shall not be required to pay any franchise, corporate, estate, inheritance, succession, transfer, income, profits or revenue taxes of Lessor. In the event that any assessment levied or assessed against the Property or any part thereof becomes due and payable during the term hereof and legally may be paid in installments, Lessee shall have the option to pay such assessment in installments, and, in such event, Lessee shall be liable only for those installments which become due and payable during the term. Promptly upon the expiration or earlier termination of this Lease, Lessor shall pay to Lessee that portion of all taxes, fees, charges and other sums as shall have been paid by Lessee pursuant to this Paragraph 8(a) and as are allocable to any period beyond the date of such expiration or earlier termination, and Lessee shall pay to Lessor that portion of all such taxes, fees, charges and other sums as shall be allocable to the period up to and including the date of such expiration or earlier termination and which shall not have been paid by Lessee. Lessee agrees to furnish or cause to be furnished to Lessor, promptly after written demand therefor, proof of timely payment of any such tax, assessment, levy, fee and water and sewer rent and charge and any such utility and communication charge which is payable by Lessee as provided in this Paragraph 8(a).

(b) Subject to Paragraph 16, Lessee shall, at its expense, comply with and shall cause the Property to comply with all governmental statutes, laws, rules, orders, regulations and ordinances affecting the Property or any part thereof or the use thereof, including those which require the making of any structural, unforeseen or extraordinary changes, whether or not any of the same which may hereafter be enacted involve a change of policy on the part of the governmental body enacting the same. Lessee shall, at its expense, comply with the provisions of all restrictions now in effect affecting the Property or any part thereof or the ownership, occupancy or use thereof.

9. THIS SECTION INTENTIONALLY DELETED.

10. INDEMNIFICATION.

Lessee agrees to pay, and to protect, indemnify and save harmless Lessor from and against, any and all liabilities, losses,



damages, costs, expenses (including all reasonable attorneys' fees and expenses), causes of action, suits, claims, demands or judgments of any nature whatsoever arising from

(i) any injury to or death of any person or any damage to property on the Property or in any manner growing out of or connected with the use of the Property by Lessee, and

(ii) any violation by Lessee of any restriction, statute, law, ordinance or regulation affecting the Property or any part thereof or the ownership, occupancy or use thereof.

11. MAINTENANCE AND REPAIR.

Lessee agree that it will, at its expense, keep and maintain the Property in good repair and appearance, except for ordinary wear and tear, and will, with reasonable promptness, make all structural and non-structural, foreseen and unforeseen, and ordinary and extraordinary changes of every kind and nature which may be required to be made upon or in connection with the Property or any part thereof in order to keep and maintain the Property in good repair and appearance. Notice is hereby given that Lessor will not be liable for any labor, services or materials furnished or to be furnished to Lessee, or to anyone holding the Property or any part thereof, through or under Lessee. Lessor shall not be required to maintain, repair or rebuild, or to make any alterations, replacements or renewals of any nature or description to the Property or any part thereof, whether ordinary or extraordinary, structural or non-structural, foreseen or unforeseen, or to maintain the Property or any part thereof in any way, and Lessee hereby expressly waives the right to make repairs at the expense of Lessor, which right may be provided for in any statute or law in effect at the time of the execution and delivery of this Lease or any other statute or law which may thereafter be enacted.

12. ALTERATIONS.

(a) Lessee may, without expense to Lessor, make additions to and alterations of the Improvements at any time located or constructed on the Leased Premises, and Lessee may make substitutions and replacements for the same, provided that,

(i) the market value of the Property shall not be lessened by reason of any such addition, alteration, substitution or replacement,

(ii) the foregoing actions shall be performed in accordance with all applicable laws and in a good and workmanlike manner, and

(iii) such additions, alterations, substitutions and replacements shall not impair the structural integrity of the Improvements and shall be expeditiously completed in compliance with all laws, ordinances, orders, rules, regulations and requirements applicable thereto.

(b) Lessee may, at its expense,

(i) construct upon the Leased Premises any additional buildings, structures or other improvements, and

(ii) install, assemble or place upon the Leased Premises any items of machinery or equipment used or useful in Lessee's or any sublessee's business,

in each case in compliance with all the terms and conditions set forth in Paragraph 12(a).

(c) Lessor's prior consent, which may not be unreasonably withheld or delayed, shall be required for any alterations (i) over \$150,000.00 or (ii) affecting the structure of the building or other Improvements.

### 13. CONDEMNATION.

(a) If a portion of the Property shall be taken in or by condemnation or other eminent domain proceedings pursuant to any law, general or special, so that Lessee, in its opinion, can profitability continue its business on the remaining portion as set forth hereinbelow, Lessee shall, at its expense, repair any damage to the Leased Premises.

(b) Except as herein otherwise specifically provided, if a portion of the Leased Premises shall be taken as aforesaid, this Lease shall continue but the Basic Rent thereafter payable by Lessee shall be reduced from the date of each such partial taking by an amount equal to the product of the Basic Rent payable at the time of each such taking multiplied by a fraction, the numerator of which is the area of the Leased Premises taken pursuant to such partial taking and the denominator of which is the area of the Leased Premises immediately prior to such taking.

(c) If the entire Property shall be taken in or by condemnation or other eminent domain proceedings under any law, general or special (other than a taking for temporary use), this Lease shall terminate on the day following the date of such taking, except with respect to obligations and liabilities of Lessee under this Lease, actual or contingent, which have arisen on or prior to such date of termination, upon payment by Lessee of

(i) all Basic Rent due with respect to the period during which this Lease is in effect, and

(ii) all other sums due and payable by it under this Lease to and including such date, and Lessee shall not be required to repair the Property.

If at the time of a taking (other than a taking for temporary use) under such proceedings of any substantial portion of the Property which is sufficient, in the good faith judgment of Lessee, to render the remaining portion thereof uneconomic for Lessee's continued use or occupancy, Lessee, at its election, may give written notice to Lessor of the termination of this Lease on the earlier of the date set by such proceeding for such taking and the next date for the payment of Basic Rent which occurs not less than ninety (90) days after delivery of such notice, and this Lease shall terminate as of the date specified in such notice.

(d) All awards and payments made on account of any taking of the Property in condemnation or other eminent domain proceedings shall be paid as follows:

(i) if on account of the real estate and buildings (as of the date hereof), to Lessor;

(ii) if on account of the Improvements, to Lessee; and

(iii) if on account of the Property, to Lessor and Lessee in proportion to the fair market value of the Leased Premises and the Improvements, respectively, determined as of the date prior to such taking as if this Lease had not been and would not be terminated by reason of such taking. If Lessor and Lessee are unable to agree upon such respective values, such values shall be determined by appraisal within a reasonable time in accordance with Paragraph 24 and the fees for such appraisal shall be deducted from the awards and payments made with respect to the Property prior to the disbursement of such awards and payments in accordance with this clause (iii).

For the purposes of this Lease, all amounts payable pursuant to any agreement with any condemning authority which has been made in settlement of or under threat of such taking shall be deemed to constitute an award made in such proceeding.

(e) In the event of a taking in or by such proceeding of all or any portion of the Property for temporary use, this Lease shall continue in full effect without reduction or abatement of Basic Rent and additional rent, and Lessee shall be entitled, to make claim for, recover and retain any awards or proceeds made on account thereof, whether in the form of rents or otherwise.

14. CASUALTY.

(a) In the event of any casualty to the Property other than real estate and building, Lessee shall promptly restore same in accordance with the provisions of Paragraph 12(a) hereof and all insurance proceeds shall be the property of Lessee.

(b) If the Improvements shall be substantially damaged or destroyed in any single casualty during the last three (3) years of the term (or any renewal term) hereof so that the Property shall, in the judgment of Lessee, be uneconomic for restoration for Lessee's continued use and occupancy, then Lessee may give notice to Lessor, within ninety (90) days after such occurrence, of its intention to terminate this lease on any business day specified in such notice which occurs not less than ninety (90) days after the date of giving of such notice, and this Lease shall terminate on the date specified in such notice. In such event, Lessee shall make all payments as set forth in paragraph 13(d) hereof and all insurance proceeds shall be payable to Lessor.

(c) As a prior condition to the termination hereof under this Section 14, the "Note" of even date from Lessee to Lessor must be paid in full.

15. ASSIGNMENT, SUBLETTING AND MORTGAGING.

(a) Lessee may assign, transfer, sell, mortgage or pledge the whole or any part of its interest in this Lease, its interest in the leasehold estate hereby created and the term hereby demised and let, as security or otherwise, and may sublet the whole or any part of the Property. Lessee shall, at or prior to the time of any such assignment, transfer, sale, mortgage, pledge or sublease, give Lessor notice thereof. Upon any such assignment of this Lease, the assignor thereof shall be relieved and released of all liability as lessee hereunder accruing under this Lease after the date of such assignment, provided, that such assignee has a net worth equal to or greater than Lessee as of the date hereof.

(b) Anything in the foregoing to the contrary notwithstanding, until the Note has been paid in full, Lessor's consent shall be required to any assignment if this Lease, provided, however, that such consent shall not be unreasonably withheld or delayed.

16. PERMITTED CONTESTS.

Lessee shall not be required to

(a) pay any tax, assessment, levy, fee, water or sewer rent or charge,

(b) comply with any statute, law, rule, order, regulation or ordinance,

(c) discharge or remove any lien, encumbrance, or charge, or

(d) obtain any waivers or settlements or make any changes or take any action with respect to any encroachment, hindrance, obstruction, violation or impairment,

so long as Lessee shall contest, in good faith and without expense to Lessor, the existence, amount or validity thereof, the amount of the damage caused thereby or the extent of its liability therefor by appropriate proceedings; provided, however, that Lessee shall not permit

(i) the collection of, or other realization upon, the tax, assessment, levy, fee, water or sewer rent or charge or lien, encumbrance or charge so contested;

(ii) the sale, forfeiture or loss of the Property or any part thereof or the Basic Rent or any additional rent or any portion thereof to satisfy the same or to pay any damages caused by the violation of any such statute, law, rule, order, regulation or ordinance or by any such encroachment, hindrance, obstruction, violation or impairment;

(iii) any interference with the use or occupancy of the property or any part thereof; or

(iv) any interference with the payment of the Basic Rent or any additional rent or any portion thereof.

While any such proceedings are pending, Lessor shall not have the right to pay, remove or cause to be discharged the tax, assessment, levy, fee, water or sewer rent or charge or lien, encumbrance or charge thereby being contested. Lessee further agrees that each such contest shall be promptly prosecuted to a final conclusion. Lessee will pay or cause to be paid and save Lessor harmless from and against any and all losses, judgments, decrees and costs (including all reasonable attorneys' fees and expenses) in connection with any such contest and will, promptly after the final settlement or determination of such contest, fully pay and discharge the amounts which shall be levied, assessed, charged or imposed or be determined to be payable therein or in connection therewith, together with all penalties, fines, interests, costs and expenses thereof or in connection therewith and perform all acts, the performance of which shall be ordered or decreed as a result thereof.

17. CONDITIONAL LIMITATIONS, DEFAULT PROVISION.

(a) Any of the following occurrences or acts shall constitute an event of default under this Lease:

If Lessee, at any time during the continuance of this Lease (and regardless of the pendency of any bankruptcy, reorganization, receivership, insolvency or other proceedings, at law, in equity or before any administrative tribunal, which have or might have the effect of preventing Lessee from complying with the terms of this Lease), shall

(1) fail to make any payment of Basic Rent, additional rent or other sum herein required to be paid by Lessee for ten (10) days after written notice thereof, or

(2) fail to observe or perform any other provision hereof for thirty (30) days after Lessor shall have delivered to Lessee notice of such failure (provided that in the case of any default referred to in this clause (2) which cannot with diligence be cured within such thirty (30) day period, if Lessee shall proceed promptly to cure the same and thereafter shall prosecute the curing of such default with diligence, then upon receipt by Lessor of a Certificate from Lessee stating the reason that such default cannot be cured within thirty (30) days and stating that Lessee is proceeding with diligence to cure such default, the time within which such failure may be cured shall be extended for such period as may be necessary to complete the curing of the same with diligence).

(b) If an event of default shall have happened and be continuing, Lessor shall have the right at its election, then or at any time thereafter while such event of default shall continue, to give Lessee written notice of Lessor's intention to terminate the term of this Lease on a date specified in such notice. Upon the giving of such notice, the term of this Lease and the estate hereby granted shall expire and terminate on such date as fully and completely and with the same effect as if such date were the date hereinbefore fixed for the expiration of the term of this Lease, and all rights of Lessee hereunder shall expire and terminate, but Lessee shall remain liable as hereinafter provided. Unless such notice shall have been given, this Lease shall not terminate, notwithstanding any default under this Lease and the abandonment of the Property by Lessee. If an event of default shall have happened and be continuing and Lessee shall have abandoned the Property, Lessor may, at its option, enforce all of its rights and remedies under this Lease, including the right to receive Basic Rent, additional rent and all sums payable hereunder as they become due. Moreover, Lessor shall be entitled to recover from Lessee all costs of maintenance and preservation of the Property, and all costs, including attorneys' and receiver's fees, incurred in connection with the appointment of and performance by a

receiver to protect the Property and Lessor's interest under this Lease.

(c) If an event of default shall have happened and be continuing, Lessor shall have the immediate right, whether or not the term of this Lease shall have been terminated to re-enter and repossess the Property or any part thereof by force, summary proceedings, ejectment or otherwise and the right to remove all persons and property therefrom. Lessor shall be under no liability for or by reason of any such entry, repossession of the Property by Lessor shall be construed as an election on Lessor's part to terminate the term of this Lease unless a written notice of such intention be given to Lessee or unless the termination of this Lease be decreed by a court of competent jurisdiction.

(d) At any time or from time to time after the repossession of the Property or any part thereof, whether or not the term of this Lease shall have been terminated, Lessor shall use its commercially reasonable efforts to relet the Property or any part thereof, for such term or terms (which may be greater or less than the period which would otherwise have constituted the balance of the term of this Lease) and on such conditions (which may include concessions or free rent) and for such uses as Lessor, in its absolute discretion, may determine, and Lessor may collect and receive any rents payable by reason of such reletting. Lessor shall not be responsible or liable for any failure to relet the Property or any part thereof or for any failure to collect any rent due upon any such reletting.

(e) No expiration or termination of the term of this Lease by operation of law or otherwise, and no repossession of the Property or any part thereof or otherwise and no reletting of the Property or any part thereof, shall relieve Lessee of its liability and obligations hereunder, all of which shall survive such expiration, termination, repossession or reletting.

(f) In the event of any expiration or termination of this Lease or repossession of the property or any part thereof by reason of the occurrence of an event of default, Lessee will pay to Lessor the Basic Rent, additional rent and other sums required to be paid by lessee to and including the date of such expiration, termination or repossession; and, thereafter, Lessee shall, until the end of what would have been the term of this Lease in the absence of such expiration, termination or repossession, and whether or not the Property or any part thereof shall have been relet, be liable to Lessor for, and shall pay to Lessor, as liquidated and agreed current damages:

(i) The Basic Rent, additional rent and other sums which would be payable under this Lease by Lessee in the

absence of such expiration, termination or repossession, less

(ii) the net proceeds, if any, of any reletting effected for the account of Lessee, after deducting from such proceeds all Lessor's expenses in connection with such reletting (including, without limitation, all repossession costs, brokerage commissions, legal expenses, attorneys' fees, alteration costs and expenses of preparation for such reletting).

Lessee will pay such current damages on the days on which the Basic Rent would have been payable under this Lease in the absence of such expiration, termination or repossession, and Lessor shall be entitled to recover the same from Lessee on each such day.

(g) At any time after any such expiration or termination of this Lease or repossession of the Property or any part thereof by reason of the occurrence of an event of default, whether or not Lessor shall have collected any current damages, Lessor shall be entitled to recover from Lessee, and Lessee will pay to Lessor on demand, as and for liquidated and agreed final damages for Lessee's default and in lieu of all current damages beyond the date of such demand (it being agreed that it would be impracticable or extremely difficult to fix the actual damages), an amount equal to the excess, if any, of

(i) the Basic Rent, additional Rent and other sums which would be payable under this Lease from the date of such demand for what would be the then unexpired term of this Lease in the absence of such expiration, termination or repossession, over

(ii) the then fair net rental value of the Leased Premises for the same period, both discounted at a rate per annum as shall be the then current discount rate.

If any statute or rule of law shall validly limit the amount above agreed upon, Lessor shall be entitled to the maximum amount allowable under such statute or rule of law.

(h) The words "enter", "re-enter" or "re-entry", as used in this Paragraph, are not restricted to their technical meaning.

#### 18. ADDITIONAL RIGHTS OF LESSOR.

No right or remedy herein conferred upon or reserved to Lessor is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given here under or now or hereafter existing at law or in equity or by statute, provided



that Lessor shall not be entitled to any "self-help" remedy and shall not be reimbursed for any loss or damage more than once.

19. NOTICES, DEMANDS AND OTHER INSTRUMENTS.

All notices, demands, requests, consents, approvals and other instruments required or permitted to be given pursuant to the terms of this Lease shall be in writing and shall be deemed to have been properly given if sent by commercial overnight carrier (e.g. Federal Express), with respect to Lessee,

addressed to Lessor:

Michael A. Seaman  
8230 Wehrle Drive  
Williamsville, New York 14221

cc: Robert M. Pusateri, Esq.  
Smith, Speranza, Pusateri,  
Fitzgerald, Foltz & May  
131 East Avenue  
Post Office Box 540  
Lockport, New York 14095-0540

addressed to Lessee:

Golden Bear Golf Centers, Inc.  
11780 U.S. Highway #1  
North Palm Beach, FL 33408

Attention: President

cc: David M. Shaw, Esq.  
Fleming, Haile & Shaw, P.A.  
440 Royal Palm Way, Suite 100  
Palm Beach, Florida 33480

Lessor and Lessee shall each have the right from time to time to specify as its address for purposes of this Lease any other address in the United States of America upon giving fifteen (15) days written notice thereof, similarly given, to the other party.

20. ESTOPPEL CERTIFICATE.

(a) Lessee will execute, acknowledge and deliver to Lessor, promptly upon request a Certificate certifying

(i) that this Lease is unmodified and in full effect (or, if there have been modification, that the Lease is in full effect, as modified, and stating the modifications),

(ii) the dates, if any, to which the Basic Rent, additional rent and other sums payable hereunder have been paid and the amount of the Basic Rent currently payable, and

(iii) that no notice has been received by Lessee of any default which has not been cured or, if any default for which notice has been received has not been cured, specifying the nature and period of existence thereof, and what action Lessee is taking or proposes to take with respect thereto.

(b) Lessor will execute, acknowledge and deliver to Lessee, promptly upon request, a Certificate signed by a Vice President of Lessor certifying

(i) that this Lease is unmodified and in full effect (or, if there have been modifications, that this Lease is in full effect, as modified, and stating the modifications),

(ii) the dates, if any, to which the Basic Rent, additional rent and other sums payable hereunder have been paid and the amount of the Basic Rent currently payable, and

(iii) that no default has been given by Lessor of any default which has not been cured, or if any default for which notice has been given has not been cured, specifying the nature and period of existence thereof and what action Lessor is taking or proposes to take with respect thereto.

21. SURRENDER.

Upon the expiration or earlier termination of this Lease, Lessee shall peaceably leave and surrender the Property to Lessor in the same condition in which the Property were originally received from Lessor at the commencement of the term of this Lease, except as improved, repaired, rebuilt, restored, altered or added to as provided in, permitted by or required by any provision of this Lease and except for ordinary wear and tear, and damage by casualty or condemnation. Lessee, if not then in default, shall have the right to remove from the Leased Premises or or prior to such expiration or earlier termination all property situated thereon which is not owned by Lessor, including the Improvements, or at its election, to allow such property to remain on the Leased Premises, but Lessee shall be required to repair, at its expense, any damage to the Leased Premises resulting from any such removal. Such property not so removed shall become the property of Lessor.

22. SEPARABILITY:

Each and every covenant and agreement contained in this Lease is, and shall be construed to be, a separate and independent covenant and agreement, and the breach of any such covenant or agreement by Lessor shall not discharge or relieve Lessee from its obligations to perform the same. If any term or provision of this Lease or the application thereof to any person or circumstances shall to any extent be invalid and unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each

term and provision of this Lease shall be valid and shall be enforced to the extent permitted by law.

23. ENCUMBRANCE BY LESSOR.

Any mortgage or deed of trust granted by Lessor with respect to the Property shall be subordinate and inferior to the terms and provisions hereof.

24. APPRAISERS.

Whenever in this Lease it is provided that any question shall be determined by appraisers, such questions shall be submitted to a board of appraisers, three (3) in number, each of whom shall be a qualified member of the American Institute of Real Estate Appraisers, or any successor of such Institute, or if such organization or successor shall no longer be in existence, a recognized national association or institute of appraisers. One such appraiser shall be named by each of the parties hereto and the third shall be selected by the two (2) named, and the decision of any two (2) of such appraisers shall be final and conclusive on the parties hereto. If the two appraisers designated by the parties fail to select a third appraiser within fifteen (15) days after the appointment by such parties, either party shall have the right to apply to the American Institute of Real Estate Appraisers or such successor for the designation of a third appraiser. Lessor agreed that it will recognize any designation by Lessee of the Beneficiary as the party to exercise the rights of Lessee with respect to the selection of appraisers in connection with any dispute arising hereunder which it is provided herein is to be determined by appraisal pursuant to this paragraph.

25. INSURANCE.

Lessee agrees to keep in effect, during the Initial and any renewal term of this Lease, fire and extended coverage insurance covering the Leased Premises, underwritten by a responsible insurance company authorized to do business in the State in which the Leased Premises is located in an amount sufficient to totally insure all insurable improvements located on the Leased Premises above the building slab. Lessee shall periodically review and update such coverage with such deductibles as the Lessee shall maintain in its general insurance package. Further, Lessee shall maintain general liability insurance in the amount not less than Two Million Dollars (\$2,000,000). Lessee shall furnish Lessor with a Certificate of Insurance, showing Lessor as a named insured. Such certificate shall provide that such insurance shall not be cancelled without twenty (20) days prior written notice to the certificate holder. Where the Lessee is obligated to repair or restore the Leased Premises, the proceeds from the above described insurance policy shall be made available to Lessee for the sole purpose of rebuilding and repairing said Leased Premises.

26. LESSEE'S TRADE FIXTURES, SIGNAGE.

All of Lessee's trade fixtures and all of its exterior and interior signage, logos and related items shall be and remain the property of Lessee and may be removed from the Leased Premises.

27. HAZARDOUS SUBSTANCE.

(A) Lessee shall not cause or permit any Hazardous Material to be brought upon, kept, or used in or about the Premises by Lessee, its agents, employees, contractors or invitees, except in accordance with all applicable requirements of law. If Lessee breaches the obligations stated in the preceding sentence, or if the presence of Hazardous Material on the Premises caused or permitted by Lessee results in contamination of the Premises, then Lessee shall indemnify, defend and hold Lessor harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses which arise during or after the lease term as a result of such contamination. This indemnification of Lessor by Lessee includes, without limitation, costs incurred in connection with any investigation or site conditions or any cleanup, remedial, removal, or restoration work required by any federal, state, or local governmental agency or political subdivision because of Hazardous Material present in the soil or ground water on or under the Premises. Without limiting the foregoing, if the presence of any Hazardous Material on the Premises caused or permitted by Lessee results in any contamination of the Premises, Lessee shall promptly take all actions at its sole expense as are necessary to return the Premises to the condition existing prior to the introduction of any such Hazardous Material to the Premises; provided that Lessor's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse long-term or short-term effect on the Premises.

(B) As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of Ohio or the United States Government. The term "Hazardous Material" includes, without limitation, any material or substance that is (i) defined as a "hazardous substance" under [appropriate state law provisions], (ii) petroleum, (iii) asbestos, (iv) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. §1321), (v) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq. (42 U.S.C. §6903), (vi) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 et seq. (42 U.S.C. §9601), or (vii) defined as a "regulated substance" pursuant to Subchapter IX, Solid Waste Disposal Act (Regulation of Underground Storage Tanks), 42 U.S.C. §6991 et seq.

(C) This indemnity shall survive the expiration or termination of this Lease.

28. ATTORNEYS' FEES.

If any legal action or other proceeding is brought for the enforcement of this Lease Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Lease Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable and other costs incurred in that action or proceeding, including those related to appeals, in addition to any other relief to which it or they may be entitled.

29. SHORT FORM OF LEASE.

It is agreed by the parties that an appropriate Short Form (or Memorandum) of Lease, including the Easement provided in Section 1. (d) hereof, shall be executed in recordable form and filed of record in the appropriate recording office.

30. RIGHTS OF FIRST REFUSAL.

If at any time during the term of this Lease, Lessor shall receive and be willing to accept a bona fide offer from a third party to purchase Lessor's interest in the Property, or shall offer to sell its interest in the Property to any third party, Lessor shall promptly transmit to Lessee a written offer to sell such interest to Lessee upon the same terms and conditions as are set forth in the third party offer or Lessor's offer to such third party, as the case may be, together with a true copy of such offer, and shall give Lessee sixty (60) days to accept such offer. If Lessee shall accept such offer by written notice to Lessor within such time, the offer and acceptance shall constitute a contract between them for the sale by Lessor and the purchase by Lessee of Lessor's interest in the Property, such sale and purchase to be consummated within sixty (60) days.

31. BINDING EFFECT.

All of the covenants, conditions and obligations contained in this Lease shall be binding upon and inure to the benefit of the respective successors and assigns of Lessor and Lessee to the same extent as if each such successor and assign were in each case named as a party to this Lease; and the term "Lessor", as used in this Lease, shall include any successor owner or owners, at any time, of the Leased Premises or any part thereof. This Lease may not be changed, modified or discharged except by a writing signed by Lessor and Lessee.

32. HEADINGS.

The headings to the various Paragraphs and Schedules of this Lease have been inserted for reference only and shall not to any extent have the effect of modifying, amending or changing the expressed terms and provisions of this Lease.

33. GOVERNING LAW.

This Lease shall be governed by and interpreted under the laws of the state of New York.

34. SET-OFF

Lessee shall have a right of set-off against the rent in accordance with the provisions of Section 16 of the Agreement dated January 31, 1997 between Lessor and Lessee.

35. BUILDING

Anything in the foregoing to the contrary notwithstanding, Lessor and Lessee hereby agree as follows:

(a) The entire Building described on Schedule B is to be maintained by Lessor in accordance with the provisions of Section 11 hereof, it being understood and agreed that Lessee's leasehold in the Building shall only apply to the entranceways, exterior doorways, halls and bathrooms, which shall be open during all business hours of Lessee.

(b) Lessor shall pay all utility costs, real estate and personal property taxes on the Building (including the underlying land).

(c) Lessee and Lessor shall jointly provide for the security of the Building.

(d) Casualty and liability insurance for the Building shall be maintained by Lessor at its sole cost and expense. Lessee shall be named as an additional insured.

36. COMMON AREA .

Anything in the foregoing to the contrary notwithstanding, Lessor and Lessee hereby agree as follows:

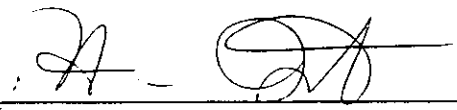
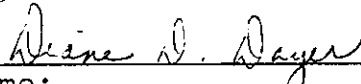
(a) The Common Area described on Schedule "C" shall be maintained by Lessee. The cost of maintenance, real estate taxes, and insurance on the Common Area shall be advanced by Lessee and Lessor, upon presentation of appropriate invoices, shall pay 55% of such costs, such percentage to be adjusted downward after the Pro Shop expansion of approximately 2,000 square feet. Such payment shall be made by Lessor within 10 days of receipt of invoices from Lessee. If Lessee does not make such


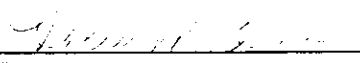
payments, Lessor shall have a right of set-off against the rent due hereunder.

37. DOMES

The Domes shall be maintained at the sole costs and expense of Lessee.

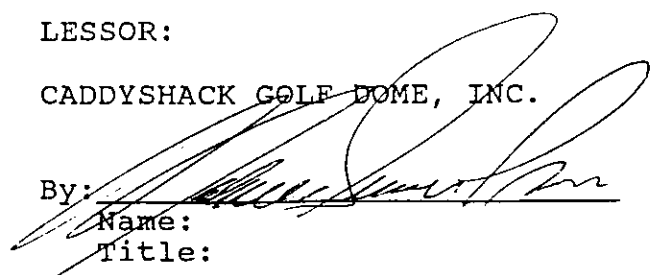
IN WITNESS WHEREOF, the parties hereto have caused this Lease to be signed and sealed as of the day and year first above written.

  
\_\_\_\_\_  
Name: \_\_\_\_\_  
  
\_\_\_\_\_  
Name: \_\_\_\_\_

  
\_\_\_\_\_  
Name: \_\_\_\_\_  
  
\_\_\_\_\_  
Name: \_\_\_\_\_

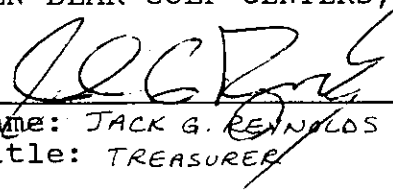
LESSOR:

CADDYSHACK GOLF DOMES, INC.

By:   
\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

LESSEE:

GOLDEN BEAR GOLF CENTERS, INC.

By:   
\_\_\_\_\_  
Name: JACK G. REYNOLDS  
Title: TREASURER

SCHEDULE "A"

PARCEL 1

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Clarence, County of Erie and State of New York, being part of Lot No. 9, Section 13, Township 12, Range 6 of the Holland Land Company's Survey, more particularly bounded and described as follows:

BEGINNING at a point in the center line of Wehrle Drive, which is also the south line of Lot No. 9 and the southwest corner of premises deeded to Thomas A. Miller, Jr. by deed recorded in the Erie County Clerk's Office in Liber 10214 of Deeds at Page 613; thence northerly along the west line of premises so deeded to Thomas A. Miller, Jr. and parallel with the east line of said Lot No. 9 a distance of 390 feet to a point in the west line of said premises so deeded to Miller; thence easterly a distance of 550.00 feet to a point 390.00 feet north of the center line of Wehrle Drive as measured along a line intersecting the said center line at a point 550.00 feet eastely from the point of beginning, measured along said centerline, and intersecting said center line at an included angle of 88 degrees 23' 21"; thence southerly along the line so intersecting the center line of Wehrle Drive a distance of 390.00 feet to the center line of Wehrle Drive; thence westerly along the center line of Wehrle Drive and south line of said Lot No. 9 a distance of 550.00 feet to the point or place of beginning.

PARCEL 2

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Clarence, County of Erie and State of New York, being part of Lot No. 9, Section 13, Township 12, Range 6 of the Holland Land Company's Survey, more particularly bounded and described as follows:

BEGINNING at a point in the center line of Wehrle Drive which is also the south line of Lot No. 9 at the southwest corner of premises deeded to Thomas A. Miller, Jr. by deed recorded in the Erie County Clerk's Office in Liber 10214 of Deeds at Page 613; thence northerly along the west line of premises so deeded to Thomas A. Miller, Jr. and parallel with the east line of Lot No. 9 a distance of 390 feet to the true point of beginning; thence northerly still along the west line of premises so deeded to Thomas A. Miller, Jr. a distance of 840 feet; thence eastely and parallel to the center line of Wehrle Drive 550 feet to a point; thence south and parallel to the west line of premises so deeded to Thomas A. Miller, Jr. 840 feet; thence west a distance of 550 feet to the point of beginning.



SCHEDULE "B"

Building Leased Premises

Those portions of the Building not leased to other tenants (including the hallways, entrance and exitways and restrooms).

SCHEDULE "C"

Common Area

The parking lot located on the Real Estate.





119 FRONTENAC AVENUE  
BUFFALO, NEW YORK 14216  
(716) 838-9064

Sept. 13, 2000

### Agenda for Board Meeting

Listed below are recommended improvements if 8230 Wehrle Dr. Inc. should take over the Family Golf Center operation. We would have to change the name to something other than Caddyshack. I think the Shack Golf Dome would not be to confusing.

Items	Cost
Fiberbuilt Double Matts/Trays (75)	\$36,620.00
Debit Card Range Servant Reader (4)	\$4,462.50
Driving Range Barrier Netting	\$84,475.00
New Carpeting Dome Upper/Lower 83 ounce	\$22,507.20
SPX 2001 Ball Launcher System	\$8,665.00
New Putting Area Southside of Dome	\$19,470.00
New Chipping & Sandtrap Area	\$38,741.00
Grooming Dome Service	\$875.00
Landscaping Interior with Café	\$11,123.04
Water Features Outdoor Range	\$6,750.00
30,000 Golf Balls	\$17,000.00
New Heater/Blower	\$11,000.00
Outdoor Range Grading	\$5,400.00
Misc. Items (TV's Office Supplies)	\$5,000.00
Advertising	\$10,000.00
<b>Total Investment</b>	<b>\$282,088.70</b>